

Ordinance No. 121294

Council Bill No. 114696

AN ORDINANCE relating to Seattle Public Utilities; authorizing the grant of easements to Puget Sound Energy, Inc., for an electrical substation and electrical and fiber optic communication facilities, on a portion of the property known as the Lake Youngs Reservation and located in unincorporated King County, with an address of 18015 SE Lake Youngs Road, Renton; declaring a portion of that property surplus to the City's needs and not required for providing continued municipal utility services; and authorizing amendments of easements on portions of the Lake Youngs Reservation in connection therewith.

CF No. \_\_\_\_\_

Date Introduced:	SEP 15 2003	
Date 1st Referred:	To: (committee) Water & Health Committee	
Date Re - Referred:	SEP 15 2003 To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: 9-29-03 9-0	
Date Presented to Mayor:	Date Approved: 9-30-03 10-9-03	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department  
Council Bill/Ordinance sponsored by: \_\_\_\_\_

Committee Action

9/23 W+H Pass 4-0: HP, HW, RM, JN

9-29-03 Passed 9-0

This file is complete and ready for presentation to Full Council.

*Law Department*

Law Dept. Review

OMP  
Review

City Clerk  
Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: PAGELEK

11 Magnus Baker  
Councilmember

**Committee Action:**

9/23 W+H Pass 4-0: MP, HW, RM, JN PS abstained

9-29-03 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: \_\_\_\_\_

Law Department

Law Dept. Review

OMP  
Review

(D)  
City Clerk  
Review

Electronic  
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NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
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*Handwritten notes:*  
Final Note Clerk/Dept  
Attachments placed (initials)  
Attachments 8, 11, 12, 13, 14,  
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25  
Attachments 26, 27, 28, 29, 30, 31, 32, 33, 34, 35  
Full text load  
Review memo  
Check M&D

ORDINANCE 121294

AN ORDINANCE relating to Seattle Public Utilities; authorizing the grant of easements to Puget Sound Energy, Inc., for an electrical substation and electrical and fiber optic communication facilities, on a portion of the property known as the Lake Youngs Reservation and located in unincorporated King County, with an address of 18015 SE Lake Youngs Road, Renton; declaring a portion of that property surplus to the City's needs and not required for providing continued municipal utility services; and authorizing amendments of easements on portions of the Lake Youngs Reservation in connection therewith.

WHEREAS, Ordinance 120347, passed April 30, 2001, authorized Seattle Public Utilities to design, construct, and operate a new water treatment facility (the "Water Treatment Facility") on City of Seattle property known as Lake Youngs Reservation and located in unincorporated King County, with an address of 18015 SE Lake Youngs Road, Renton (the "Property"); and

WHEREAS, the new Water Treatment Facility will treat Cedar River water in order to meet all current drinking water regulations, including an agreed order with the State of Washington Department of Health and the United States Environmental Protection Agency, provide additional public health protection against waterborne pathogens, and substantially improve the periodic taste and odor of water from the Lake Youngs Reservoir; and

WHEREAS, Seattle Public Utilities requires reliable primary voltage electric service to serve the Water Treatment Facility; and

WHEREAS, Seattle Public Utilities has determined, and the City Council agrees, that it would be most cost effective, efficient and reliable if Puget Sound Energy, Inc. ("Puget") were to provide the required electric service through a substation (the "Substation") and electrical equipment and fiber optic communication facilities (the "Facilities"), all to be located on the Property and to be constructed and owned by Puget; and

WHEREAS, Puget has agreed to construct the Substation and Facilities, and to provide electricity to the Water Treatment Facility, if the City grants permanent easements to Puget with respect to the Substation and Facilities; and

WHEREAS, upon the City's grant of easements with respect to the Facilities, a portion of the Property subject to the easement granted by the City to Puget (then known as Puget Sound Power & Light Company) on February 10, 1993 and recorded under King County Recording No. 390324-0740 (the "1993 Easement") no longer will be needed by Puget (the "Unneeded Portion"); and

WHEREAS, it is in the best interest of the City to amend the 1993 Easement so that the Unneeded Portion will not be subject to the 1993 Easement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.



Section 1. Pursuant to the provisions of RCW 35.94.040 and after a public hearing, the following described portion of the Property:

THAT PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST; THENCE SOUTH 01° 05' 16" WEST A DISTANCE OF 2,656.88 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 1;

THENCE SOUTH 42° 56' 09" WEST, A DISTANCE OF 859.56 FEET TO THE **TRUE POINT OF BEGINNING;**

THENCE SOUTH 22° 28' 12" WEST, A DISTANCE OF 251.33 FEET;

THENCE NORTH 67° 31' 48" WEST, A DISTANCE OF 143.00 FEET;

THENCE NORTH 22° 28' 12" EAST, A DISTANCE OF 136.35 FEET;

THENCE NORTH 73° 40' 11" EAST, A DISTANCE OF 183.49 FEET, TO THE **TRUE POINT OF BEGINNING**

(the "Substation Area") is hereby found and declared to be no longer required for providing municipal utility service and to be surplus to the City's needs.

Section 2. In consideration of Puget's agreement to construct the Substation and Facilities and to provide electricity to the Water Treatment Facility in accordance with the Installation and Service Agreement entered into between Puget and Seattle Public Utilities as of August 1, 2003 (the "Installation Agreement"), the Director of Seattle Public Utilities is authorized (a) to grant, for and on behalf of the City of Seattle, an exclusive, perpetual easement for the use, operation, inspection, maintenance, repair, replacement, improvement, and removal of, and addition to, the Substation, over, under, along, across and through the Substation Area and a non-exclusive, perpetual easement for access to and from the Substation Area, over, under, along and through the portion of the Property legally



1 described in Attachment 3 to the form of Substation Easement Agreement ("Substation Agreement")  
2 attached to this ordinance as Exhibit A, (b) to effectuate the grant of such easements, to execute a  
3 Substation Agreement substantially in the form attached to this ordinance as Exhibit A and (c) to  
4 execute such ancillary documents as he deems necessary and appropriate.


5 Section 3. In consideration of Puget's agreement to construct the Substation and Facilities  
6 and to provide electricity to the Water Treatment Facility in accordance with the Installation Agreement,  
7 the Director of Seattle Public Utilities is authorized to grant, for and on behalf of the City of Seattle, (a)  
8 a non-exclusive, perpetual easement for the use, operation, inspection, maintenance, repair, replacement,  
9 improvement, and removal of, and addition to, the Facilities, over, under, along, across and through the  
10 portion of the Property legally described in accordance with section 17 of the form of Electrical and  
11 Communication Facility Easement Agreement (the "ECF Agreement"), attached to this ordinance as  
12 Exhibit B, and (b) a non-exclusive, perpetual easement for access to and from such portion of the  
13 Property over, under, along and through the real property in King County legally described in  
14 Attachment 4 to the form of ECF Agreement. To effectuate the grant of such easements, the Director of  
15 Seattle Public Utilities also is authorized to execute an ECF Agreement substantially in the form  
16 attached to this ordinance as Exhibit B and such ancillary documents as he deems necessary and  
17 appropriate. The Director of Seattle Public Utilities also is authorized to enter into such amendment of  
18 the ECF Agreement as may be required by section 17 of the ECF Agreement. In addition, the Director  
19 of Seattle Public Utilities is authorized to amend the 1993 Easement to replace the existing legal  
20 description with the legal description contained in Exhibit C to this ordinance.

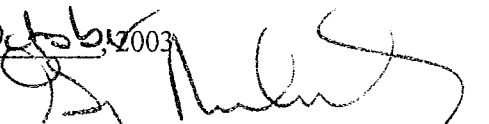
21 Section 4. Any act consistent with the authority but prior to the effective date of this  
22 ordinance is hereby ratified and confirmed.  
23  
24



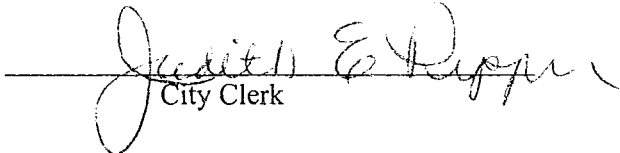
Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 29<sup>th</sup> day of September 2003, and signed by me in open session in authentication of its passage this 29<sup>th</sup> day of September 2003.

  
President \_\_\_\_\_ of the City Council

Approved by me this 9 day of October 2003  
  
Gregory J. Nickels, Mayor

Filed by me this 10<sup>th</sup> day of October, 2003.

  
City Clerk

(Seal)

#### List of Exhibits

Exhibit A – Form of Substation Easement Agreement

- Attachment 1 of Exhibit A – General Property Map
- Attachment 2 of Exhibit A – Substation Area
- Attachment 3 of Exhibit A – Substation Access Area
- Attachment 4 of Exhibit A – Insurance Requirements

Exhibit B – Electrical and Communication Facility Easement Agreement

- Attachment 1 of Exhibit B – General Property Map
- Attachment 2 of Exhibit B – ECF and City Facilities
- Attachment 3 of Exhibit B – ECF Area
- Attachment 4 of Exhibit B – ECF Access Area
- Attachment 5 of Exhibit B – Insurance Requirements

Exhibit C – Replacement Legal Description for 1993 Easement



Exhibit A

**Form of Substation Easement Agreement**

FILED FOR RECORD AT THE REQUEST OF:

Puget Sound Energy, Inc.  
Corporate Facilities Department, OBC-11N  
P.O. Box 97034  
Bellevue, WA 98009-9734  
Attn: W. Bressler

REFERENCE #: NA

GRANTOR: **THE CITY OF SEATTLE**

GRANTEE: **PUGET SOUND ENERGY, INC.**

SHORT LEGAL: **SECTION 1-22-5**

ASSESSOR'S PROPERTY TAX PARCEL: **012205-9006**

**SUBSTATION EASEMENT AGREEMENT**

This Substation Easement Agreement ("Substation Easement") is made this \_\_\_\_ day of \_\_\_\_\_, 2003 ("Effective Date"), by and between The City of Seattle, a municipal corporation of the State of Washington, acting by and through Seattle Public Utilities (the "City" or "Grantor") and Puget Sound Energy, Inc., a corporation of the State of Washington ("PSE" or "Grantee").

RECITALS

A. The City owns certain real property in unincorporated King County, Washington, commonly referred to as the Lake Youngs Reservation (as shown in Attachment 1, the "Property").

B. The City is constructing a water treatment facility on the Property, which facility requires primary voltage electric service.

C. In the Installation and Service Agreement dated as of \_\_\_\_\_ (the "I&S Agreement") between the City and PSE, the parties agreed that it would be most efficient and effective for both parties if PSE were to provide the required electric service through a substation located on the Property (as hereinafter further defined, the "Substation").

D. Pursuant to a Temporary Construction Permit dated \_\_\_\_\_ between the City and PSE, PSE has constructed and installed the Substation and certain electrical and communication facilities described in said permit.

EXHIBIT A  
PAGE 1



E. Prior to the date hereof, each of the Federal Energy Regulatory Commission and the Seattle City Council has authorized, approved or otherwise accepted without change or condition unacceptable to PSE or City, all documents required to be submitted (including this Substation Easement) to the applicable entity with respect to the transactions contemplated by the I&S Agreement.

F. In accordance with the I&S Agreement, the City and PSE, on even date herewith, have entered into an Electrical and Communication Facility Easement Agreement with respect to electrical equipment and fiber optic communication facilities used in connection with the Substation.

G. In accordance with the I&S Agreement, the City and PSE are entering into this Substation Easement.

H. The Property is within the area protected for purposes of supplying drinking water to much of the City and surrounding communities. Consequently, any easement with respect to the Substation must delineate and control permissible activities within the Property.

#### EASEMENT

For and in consideration of ten and 00/100ths dollars (\$10.00), the mutual promises contained herein and in the I&S Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City as Grantor hereby conveys and quitclaims to PSE as Grantee, for the purposes hereinafter set forth, an **exclusive** perpetual easement over, under, along, across and through the real property in King County, Washington described in Attachment 2 hereto (the "Substation Area"), together with a **non-exclusive**, perpetual easement for ingress and egress over the real property in King County, Washington described in Attachment 3 hereto (the "Access Area").

The Substation Area and the Access Area are described pictorially in Attachment 1 and are referred to collectively as the "Easement Areas." In the event of any conflict between the legal descriptions and the pictorial representation of the Easement Areas, the legal descriptions shall control.

**Purposes of Easement.** Grantee shall have the right (i) within the Substation Area, to use, operate, inspect, maintain, repair, replace, improve and remove an electrical substation containing one 25 MVA transformer and related electrical equipment and, at any future time, one additional 25 MVA transformer and related electrical equipment (the "Addition") (as existing on the date hereof and with the Addition, the "Substation"), (ii) to construct the Addition and (iii) to use the Access Area for ingress to and egress from the Substation Area (collectively, the "Purposes"), **ALL SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**



## 1. Use of Easement Areas

A. Except for the Purposes set forth immediately above, Grantee shall not enter upon the Easement Areas or make any use thereof. Grantee shall at all times exercise its rights hereunder (i) in a manner designed to prevent bodily harm to persons (whomsoever) and damage to property (whatsoever), (ii) in accordance with the terms of this Substation Easement and with the terms of the letter to Grantee dated July 7, 2003 and the therein enclosed Cedar River and Lake Youngs Watershed Access & Quality Control Regulations ("Lake Youngs Regulations) and Additional Regulations - Part 2, Operations Phase ("Additional Regulations") and (iii) except to the extent in conflict with the other provisions of this Substation Easement, in accordance with the terms of any successor document of general application (as may be modified from time to time) to the Lake Youngs Regulations or the Additional Regulations. Precautionary measures to be taken by Grantee pursuant to the Lake Youngs Regulations and Additional Regulations shall include, without limitation, security measures necessary to prevent unauthorized access to the Easement Areas.

B. At no time shall Grantee bring into or use in the Easement Areas fuel or explosive or flammable materials, other than those inherently or reasonably necessary in connection with the operation, maintenance, repair, replacement or improvement of the Substation or construction of the Addition. At no time shall Grantee store or keep any fuel or explosive or flammable materials whatsoever in the Easement Areas, other than (i) fuel or explosive or flammable materials contained in installed Substation equipment components and (ii) fuel or explosive or flammable materials contained in equipment (or a tank firmly attached thereto), if such equipment is being used in connection with Substation work. If permitted under the previous sentence, fuel or explosive or flammable materials may be kept or stored for the shorter of the period specified in section 1.D or the duration of Substation work. No other storage of fuel or explosive or flammable materials is allowed. Grantor shall be notified at least two (2) full working days in advance of any use or storage (in which case notice shall include the proposed duration of storage) of fuel or explosive or flammable materials in the Easement Areas.

C. Grantee shall promptly pay (and secure the discharge of any liens against the Easement Areas asserted by) all persons and entities furnishing any labor, equipment, services, supplies, materials or other items in connection with the exercise of Grantee's rights hereunder.

D. Except for less than forty-eight (48) hours (or any longer period with the prior written consent of Grantor) and in connection with the exercise of its rights hereunder, Grantee shall not cause or permit any equipment, supplies or other items to be kept or stored upon the Easement Areas. Except while performing work on the Substation, Grantee shall not park vehicles in the Easement Areas.

E. Grantee shall not construct or install any structure whatsoever, other than the Substation, in the Easement Areas. By way of example only, Grantee shall not construct or install a maintenance structure, storage structure, vault or garage in the Substation Area.



F. Prior to the date hereof, Grantee has submitted to Grantor, and Grantor has approved, Grantee's Spill Clean-up Policy, Document No. 0150.3100, dated November, 2002, and the letter dated June 23, 2003 from Grantee to Grantor, together fulfilling Grantor's requirements for a Spill Prevention Control and Countermeasure Plan ("SPCCP-O"), in connection with the operation, maintenance, modification, repair, replacement and removal of the Substation. Grantee shall use, operate, maintain, modify, repair and remove the Substation in accordance with the SPCCP-O, with modifications thereto, if any, that are either reasonably required or approved by Grantor to reflect changed physical or regulatory conditions that may arise over time. Five (5) years after the date on which electric power is provided to the Property through the Substation on a commercial basis (the "Commercial Operation Date"), and every five (5) years thereafter, Grantee shall deliver to Grantor a proposed revision to the SPCCP-O, and Grantee shall make such changes to said proposed revision as Grantor reasonably may request. Prior to the energization of any of the 12.5 kV feeder circuits extending from the Substation to Grantee's electrical facilities on Petrovitsky Road (the "Petrovitsky Feeders"), Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's invoices (from time to time) for all increased costs and expenses incurred by Grantee to the extent that they are attributable to Grantee's compliance with any Grantor-required changes to the SPCCP-O, provided that such invoices are documented to the reasonable satisfaction of Grantor.

G. At least forty (40) days prior to commencing work in the Substation Area on the Addition or any other work in the Substation Area that would result in a change in the one-line electrical drawings or civil drawings for the Substation last submitted to Grantor, Grantee shall submit to Grantor (i) a Temporary Erosion and Sedimentation Control Plan ("TESCP"), (ii) a Spill Prevention Control and Countermeasure Plan ("SPCCP") addressing the items outlined in the "Common Elements of a Spill Prevention Control and Countermeasure Plan" enclosed with the letter from Grantor to Grantee dated July 7, 2003 (as used in said enclosure, the term "hazardous materials," shall have the same meaning as the term "Hazardous Substances," defined in section 5.F hereof) and (iii) one-line electrical drawings and civil drawings in sufficient detail to provide Grantor with a clear understanding of the proposed modifications to the Substation Area.

Grantee shall make such changes to the proposed TESCP, SPCCP, and one-line electrical drawings and civil drawings as Grantor reasonably may request to reflect then current best management practices or otherwise. Grantee shall not commence any work to which this section 1.G applies without obtaining the prior written consent of Grantor, which consent shall not unreasonably be withheld or denied; provided, that failure by Grantor to respond to the aforesaid submittals within thirty (30) days after receipt shall be deemed to constitute Grantor's consent; provided, further, that under emergency conditions Grantee shall provide the required submittals in such time and manner as is reasonable under the circumstances and may commence (and complete) work to which this section 1.G applies prior to obtaining the prior written consent of Grantor to do so. All work to which this section 1.G applies, except for work in response to emergency conditions, shall be done in accordance with the one-line electrical drawings, civil drawings, TESCP and SPCCP approved by Grantor. Promptly after completion of work to which this section 1.G applies, Grantee shall provide Grantor with as-



built one-line electrical drawings and civil drawings in sufficient detail to provide Grantor with a clear understanding of the improvements located within the Substation Area.

H. At least ten (10) working days prior to the commencement of any work to which section 1.G applies (except when emergency conditions make such prior notice impracticable), Grantee shall provide Grantor with a work schedule detailing the time of performance and completion of such activities. For projects of a duration longer than one (1) month, Grantee shall provide Grantor with an updated work schedule on a monthly basis.

I. Grantee shall notify Grantor of any tests, surveys, drawings or other documents prepared with respect to the Easement Areas and, if requested by Grantor, Grantee promptly shall provide such documents to Grantor in hard format and, if feasible, electronic format.

J. The information required under section 1.F through 1.I is for informational purposes only. Grantor's receipt of such information, and any review analysis or consideration thereof by Grantor, or Grantor's failure to review, analyze or consider such information (including without limitation failure to discover any error, defect or inadequacy of such information) shall not relieve Grantee of any of its obligations hereunder.

K. Grantee shall comply with all requirements of Chapter 19.122 Revised Code of Washington, as it may be amended from time to time, with respect to the location of underground utilities.

L. Grantee shall have the exclusive right of occupation of the Substation Area; provided, that Grantor (i) may enter and occupy (for such period as is reasonably necessary to accomplish Grantor's rights under section 2) the unfenced Substation Area at any time and (ii) upon three (3) working days' prior notice to Grantee, Grantor may enter and occupy (for such period as is reasonably necessary to accomplish Grantor's rights under section 2) the fenced portion of the Substation Area at any reasonable time, except that if Grantor desires to enter and occupy the fenced portion of the Substation Area in response to emergency conditions, Grantor shall provide only such notice as is reasonable under the circumstances. Grantor shall not enter or occupy the fenced portion of the Substation Area unaccompanied by an employee of Grantee. If Grantee fails to provide an accompanying employee, Grantee shall be in breach of this Substation Easement, but such breach shall not entitle Grantor to enter or occupy the fenced Substation Area. In the event of a breach by Grantee of its obligations under this section 1.L, the provisions of section 10 shall apply.

M. In its use of the Easement Areas, Grantee shall comply with all security requirements generally imposed by Grantor (including without limitation the locking of gates) and provided by Grantor in writing to Grantee, as such requirements may be modified from time to time, provided such requirements are not in direct conflict with this Substation Easement. Grantee shall use the Access Area in a manner that does not interfere with ingress or egress by other persons and their equipment and vehicles; provided, that Grantee may request, ten (10) working days in advance, a temporary blockage of roads in the Access Area so that Grantee may perform scheduled maintenance or construction. Grantee's request shall



include detailed information regarding the activity to be performed, equipment to be utilized and duration of blockage. Grantee's request shall not unreasonably be delayed or denied. Notwithstanding any other provision of this Substation Easement, Grantee shall not use any portion of the Access Area to keep, park or store any vehicles, equipment, supplies, or other items. Grantee shall not bring into the Easement Areas any vehicle with a live load that exceeds the American Association of State Highway and Transportation Officials HS20-44 Standard Truck Loading, without the prior written consent of Grantor.

N. As used in this section 1, the terms Grantor and Grantee shall include the employees, agents, contractors, subcontractors (of any tier), licensees or invitees of each.

## **2. Reservation**

A. Grantor reserves to itself the right to use the Easement Areas for its own purposes in any way that does not conflict with the rights herein granted; provided that, subject to section 1.L, Grantee's rights hereunder shall not preclude Grantor from taking any measures with respect to the Easement Areas that Grantor deems necessary to protect public health or safety. In addition, Grantor reserves to itself the right (i) to require Grantee to relocate the Substation within or outside the Substation Area, but in any event within the Lake Youngs Reservation (as depicted in Attachment 1) or on other property owned by Grantor and, if outside the Substation Area, to require the amendment of the Substation Area under this Substation Easement to reflect such relocation, and (ii) subject to section 1.L, to enter upon and occupy the Easement Areas from time to time to take such actions as Grantor deems necessary to remediate Hazardous Substances (as defined in section 5.F) or to assure compliance with Environmental Laws (as defined in section 5.E), other than those of The City of Seattle, or the provisions of this Substation Easement regarding Hazardous Substances (each, an "Environmental Action"), whether or not the Environmental Action is required (directly or indirectly) for compliance with any law or regulation (other than a law or regulation of The City of Seattle) or is necessitated by an agreement between Grantor and another governmental or regulatory agency with respect to Environmental Laws or Hazardous Substances. With respect to clauses (i) and (ii) of the previous sentence, (x) Grantor shall provide reasonable notice to Grantee of the schedule and nature of any required Substation relocation or Environmental Action, and Grantor shall provide a reasonable opportunity for Grantee to review and comment thereon, (y) to the extent reasonably feasible, Grantor shall plan any required Substation relocation and shall plan and execute any Environmental Action so as to minimize adverse effects on Grantee's service to its customer load, and (z) Grantor shall reimburse Grantee for costs and expenses incurred by Grantee only to the extent that Grantee's costs and expenses are documented to Grantor's reasonable satisfaction and are attributable to (a) a required Substation relocation or (b) an Environmental Action that is **not** an action taken by Grantor in accordance with section 5.C or 5.D. Any use of the Substation Area by Grantor not specifically addressed in this Substation Easement shall be subject to Grantee's prior written consent.

B. Grantee accepts the reservations contained in section 2.A, acknowledges that its rights with respect to the Access Area are non-exclusive, and agrees that Grantor itself may use the Access Area and may grant other easements, property interests or use

rights with respect thereto, so long as such grants (or any use pursuant to such grants) do not conflict or interfere with Grantee's exercise of its rights hereunder.

**3. Condition of Easement Areas.** Without limiting any of the provisions of sections 5.G and 7.B, Grantee represents that it has inspected the Easement Areas and conducted such assessments as it deems appropriate, and Grantee accepts the Easement Areas, solely for the Purposes, in their present condition, "As Is," with all faults known and unknown; provided, that Grantor agrees, at Grantor's sole expense, to perform wetland buffer mitigation on the Property, and related monitoring, reporting and maintenance as required by any governmental authority with jurisdiction. Grantee's acceptance and use of the Easement Areas is not, and shall not be deemed, acceptance of Hazardous Substances that previously have been released in the Easement Areas, nor is Grantee responsible to remediate such prior conditions to bring the Easement Areas into compliance with Environmental Laws. Grantor retains, and as between Grantor and Grantee, shall remain liable for, such obligations, if any.

Grantee represents that it is not relying on any statements, written or oral, made by or on behalf of Grantor with respect to the condition of the Easement Areas, although Grantee acknowledges receipt of the report entitled Environmental Site Assessment and Soil Removal Oversight, prepared by Herrera Environmental Consultants and dated July 3, 2003. Grantee acknowledges that no representations or warranties, express or implied, have been made by or on behalf of Grantor with respect to the condition of the Easement Areas or the use or occupancy of that may be made of them by Grantee, including without limitation their suitability or sufficiency for Grantee's intended use or purposes.

#### **4. Vegetation and Pest Control**

A. Grantor hereby approves Grantee's Vegetation Management Plan ("VMP") with respect to the Substation Area dated March 21, 2003. At Grantor's request, Grantee and Grantor shall meet to discuss and review Grantee's implementation of its VMP. Five (5) years after the Commercial Operation, and every five (5) years thereafter, Grantee shall deliver to Grantor a proposed revision to Grantee's VMP identifying the trees outside the Substation Area but on the Property that Grantee has determined met the criteria of "non-imminent danger trees" set forth in the then-current, approved VMP and that Grantee desires to remove in the next five (5) years, as well as other possible changes to the VMP reflecting then-current best management practices and/or changed conditions. In addition, prior to taking any action that does not conform to the then-current, approved VMP, Grantee shall submit to Grantor a proposed revision. Grantee shall make such changes to its proposed revision as Grantor may reasonably require. Grantor shall promptly reimburse Grantee upon receipt of Grantee's invoices (from time to time) for all direct increased costs incurred by Grantee that are attributable to such changes to the proposed VMP that Grantor has reasonably required.

B. Grantee shall use no chemical pesticides, including without limitation herbicides, rodenticides and insecticides (collectively, "Biocides") in the initial removal or subsequent management of vegetation within the Property. As used in this Substation



Easement, "vegetation" means all forms of plant life, including, without limitation, trees. In addition, Grantee shall not apply plant nutrients in the Easement Areas without the prior written approval of Grantor.

C. Grantee shall have the right to cut, trim, remove and dispose of any tree on the Property that falls within the criteria for a "non-imminent danger tree" or an "imminent danger tree" set forth in the then-current, approved VMP; provided, that such right shall be exercised strictly in accordance with the terms of this Substation Easement, Grantee's approved VMP, and all applicable laws or regulations. Grantee shall be responsible for obtaining all necessary governmental permits for trimming, cutting or removal of trees and other vegetation. Grantee shall pay Grantor the actual amount received by Grantee (if any) from the sale of any merchantable timber that Grantee cuts. Grantee also shall have the right, in conformity with the terms of this Substation Easement and Grantee's approved VMP, to manage and control the establishment and growth of all vegetation in the Substation Area.

D. In the Substation Area, Grantee shall control noxious weeds (as such term is defined in RCW 17.10.010 as amended from time to time) in a manner conforming to the terms of this Substation Easement, the requirements of the King County Noxious Weed Control Program (or successor programs), and Grantee's VMP shall describe such activities.

E. In the Access Area, Grantee shall have no obligation to control noxious weeds, nor shall Grantee have any right to control vegetation in any manner.

#### **5. Hazardous Materials; Waste**

A. All Grantee's operations or activities on or about the Property, and any use or occupancy of the Easement Areas, including without limitation any use or occupancy of the Easement Areas by any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantee, shall be in all material respects in compliance with all Environmental Laws (as defined in section 5.E), including those governing, or in any way relating to, the generation, handling, storage, use transportation, discharge or disposal (whether legal or illegal, accidental or intentional) of any Hazardous Substance (as defined in section 5.F). More specifically, Grantee shall not cause to occur upon the Easement Areas, or permit the Easement Areas to be used to, generate, manufacture, refine, transport, treat, store, handle, dispose discharge, transfer, or process any Hazardous Substance, except in compliance with all applicable Environmental Laws and with Grantor's prior written consent. Grantee shall not allow the release, storage, use or disposal of any Hazardous Substance on or about the Property except for their intended purposes as reasonably necessary for activities of Grantee permitted hereunder, and only upon the prior written consent of Grantor and in compliance with all applicable Environmental Laws. Grantee shall dispose offsite of all spent materials (waste), whether they are Hazardous Substances or not, in accordance with all applicable laws. With respect to any Hazardous Substances used or stored on or about the Easement Areas with Grantor's written consent, Grantee shall promptly, timely and completely: (i) comply with all federal state and local governmental requirements for reporting and record keeping; (ii) submit to Grantor true and correct copies of all reports,



manifests and identification numbers at the same time that Grantee is required to submit such information to governmental authorities; (iii) within five (5) working days after the Grantor's request therefor provide evidence satisfactory to Grantor of Grantee's compliance with all applicable Environmental Laws; and (iv) comply with all applicable governmental rules, regulations and requirements regarding the lawful and proper use, sale, transportation, generation, treatment and disposal of such Hazardous Substances.

B. Prior to bringing into, using in (including without limitation treating or taking any other action with respect to any Hazardous Substance then being used in the Easement Areas), or removing from the Easement Areas any Hazardous Substance except for vehicle fuel and vehicle operating fluid (each, a "Use"), Grantee shall provide written notice to Grantor (which notice shall be received at least five (5) days prior to the Use) of the type and quantity of Hazardous Substance involved in the Use, together with a statement on which Grantor may rely that the then-current SPCCP-O or SPCCP, as applicable, adequately addresses Grantee's intended Use, or Grantee shall deliver a proposed revision to that SPCCP-O or SPCCP, as applicable; provided, that the requirements of this section 5.B shall not apply to any Use of Hazardous Substances addressed in the approved SPCCP-O or SPCCP. Grantor's notice shall include the schedule and purpose of the Use. Grantee shall engage in no Use without Grantor's written approval, which shall not unreasonably be withheld or denied. Notwithstanding the foregoing provisions of this section 5.B, in response to emergency conditions, Grantee shall provide the aforesaid notice at such time as is reasonable under the circumstances, and Grantee may engage in such Use prior to obtaining Grantor's written approval. Promptly after completing the activities described in the approved notice, Grantee shall report to Grantor in writing on the Use that actually occurred, including without limitation type and amount of Hazardous Substances involved and incidents of spills or dangerous waste disposal.

C. With respect to the Substation Area, if Grantee, any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantee, or any other person (other than Grantor, its employees, agents, contractors, subcontractors of any tier, licensees or invitees) violates any of the terms of this Substation Easement concerning compliance with Environmental Laws or the presence, Use, handling or storage of Hazardous Substances, Grantee shall promptly take such action as is necessary to mitigate and correct the violation. Grantor shall have no liability or responsibility for any costs that may be incurred by Grantee in connection with or as a result of actions taken by Grantor in accordance with this section 5.C. If Grantee does not so act in a prudent and prompt manner, Grantor reserves the right, but not the obligation, subject to all other provisions of this Substation Easement, to act in place of Grantee (for which purpose Grantee hereby appoints Grantor as its agent), to enter onto the Substation Area and to take such actions as Grantor deems necessary to ensure compliance or to mitigate the violation, provided Grantor has provided reasonable notice to Grantee of its intentions. All costs and expenses incurred by Grantor in connection with any such actions performed by Grantor shall become immediately due and payable by Grantee upon Grantor's presentation of an invoice therefor.

D. With respect to the Access Area, if Grantee, any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantee violates any of the terms



of this Substation Easement concerning compliance with Environmental Laws or the presence, Use, handling or storage of Hazardous Substances, Grantee shall promptly take such action as is necessary to mitigate and correct the violation. Grantor shall have no liability or responsibility for any costs that may be incurred by Grantee in connection with or as a result of actions taken by Grantor in accordance with this section 5.C. If Grantee does not so act in a prudent and prompt manner, Grantor reserves the right, but not the obligation, subject to all other provisions of this Substation Easement, to act in place of Grantee (for which purpose Grantee hereby appoints Grantor as its agent), to enter onto the Access Area and to take such actions as Grantor deems necessary to ensure compliance or to mitigate the violation, provided Grantor has provided reasonable notice to Grantee of its intentions. All costs and expenses incurred by Grantor in connection with any such actions performed by Grantor shall become immediately due and payable by Grantee upon Grantor's presentation of an invoice therefor.

E. For the purposes of this Substation Easement, the term "Environmental Law(s)" means any local, state or federal law, regulation, ordinance, order or other source of law, now or hereafter in effect relating to the protection of human health or the environment including, but not limited to: the Federal Clean Air Act; the Federal Water Pollution Control Act; the Federal Safe Drinking Water Act; the Federal Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; the Federal Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984; the Federal Occupational Safety and Health Act; the Federal Emergency Planning and Right-to-Know Act of 1986; the Federal Hazardous Materials Transportation Control Act of 1980; the Federal Water Act of 1977; the Federal Insecticide, Fungicide and Rodenticide Act; the Federal Waste Management Recovery and Recycling Act; the Washington Hazardous Waste Management Act; the Washington Hazardous Waste Fees Act; Washington Model Toxics Control Act; the Washington Nuclear Energy and Radiation Act; the Washington Radioactive Waste Storage and Transportation Act; the Washington Underground Petroleum Storage Tanks Act; and any regulations promulgated thereunder from time to time.

F. For purposes of this Substation Easement, the term "Hazardous Substance(s)" means any and all dangerous, hazardous or toxic substances, materials, wastes, pollutants or contaminants regulated under or subject to any Environmental Laws, including but not limited to those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. §172.101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. pt. 302 and amendments thereto) or in the Washington Hazardous Waste Management Act (Ch. 70.105D RCW) or the Washington Model Toxics Control Act (Chs. 70.105D RCW 82.21 RCW), petroleum products and their derivatives, fuel, explosive or flammable materials, and such other substances, materials and wastes as become regulated or subject to cleanup authority under any Environmental Law.

G. With respect to any Hazardous Substances that are on the Easement Areas as of the Effective Date or are released on the Easement Areas thereafter by Grantor or any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantor, a



disturbance or movement (without more) of such Hazardous Substances within the Substation Area or between the Access Area and the Substation Area by Grantee or any employee, agent, contractor, subcontractor (or any tier), licensee or invitee of Grantee during activities of Grantee permitted hereunder shall **not** be a violation of the terms of this Substation Easement concerning compliance with Environmental Laws, the presence or Use of Hazardous Substances in the Easement Areas, or the handling or storing of Hazardous Substances.

## **6. Taxes and Assessments**

A. Prior to the energization of any of the Petrovitsky Feeders and only to the extent Taxes (as defined below) when due and payable are not recoverable by Grantee through its general rates, Grantor shall pay or, if paid by Grantee, reimburse to Grantee, the amount of leasehold excise taxes and other taxes, fees, assessments or charges (however termed) by governmental entities that are imposed on Grantor or Grantee specifically because of the property interests granted to Grantee hereunder, the Substation, Grantee's use of the Substation and the Easement Areas or Grantee's personal property in the Easement Areas (collectively, "Taxes"), whether imposed on Grantor or Grantee.

B. Following energization of any of the Petrovitsky Feeders or if Taxes when due and payable are recoverable by Grantee through its general rates, (i) Grantee shall timely pay directly to the applicable governmental entity all Taxes imposed upon Grantee, and (ii) to the extent Taxes are imposed on Grantor or Grantor is obligated under the laws of the State of Washington or King County to collect any Taxes from Grantee and remit them to a governmental entity, Grantee shall pay to Grantor, within thirty (30) days of receipt of invoice, the amount of such Taxes.

C. Without limiting sections 6.A and 6.B, Grantor and Grantee acknowledge that, based on state law and regulation existing as of the Effective Date, they anticipate that a leasehold excise tax as referred to above will not be payable. If a leasehold excise tax is imposed, they will cooperate in good faith to seek and obtain any relief, if available, from the obligation to collect and pay such tax.

D. In the event that Grantee breaches or otherwise does not fulfill its obligations under this section 6, Grantor reserves the right, but not the obligation, on reasonable notice to Grantee, to pay any such Taxes that are due and owing. All costs and expenses incurred by Grantor in connection with its actions pursuant to the previous sentence shall become due and payable by Grantee within one working day of Grantor's presentation of an invoice therefor. Any overdue payment shall be made with interest thereon at the rate of twelve percent (12%) per annum calculated on the basis of a 365-day year and actual days elapsed from (and including) the date on which such payment was due, to (and excluding) the date on which such payment is made.

## **7. Indemnification**

A. General Indemnity. Notwithstanding the termination of this Substation Easement, each party (the "Indemnitor") shall indemnify, defend and hold the other party and



its directors, officers, agents, employees, contractors, successors and assigns (collectively, the "Indemnitees") harmless against any loss, damage, liability, claim, demand or cost (each, a "Loss") resulting from injury or harm to persons or property to the extent caused by the negligence of the Indemnitor or its employees, agents, contractors, subcontractors (of any tier), licensees or invitees (collectively, "Related Persons"). In the case of joint or concurrent negligence of Grantor and Grantee (or either or both Grantor, Grantee and others), the resulting Loss shall be borne by the parties hereto in proportion to their respective degrees of negligence.

B. Environmental Indemnity. In addition to all other indemnities provided in this Substation Easement, and notwithstanding its termination, the Indemnitor shall indemnify, defend and hold harmless the Indemnitees from and against all claims, causes of action, regulatory demands, judgements, liens, damages, penalties, fines, costs, expenses, liabilities or losses (including, without limitation, clean up or remedial costs, injuries to third parties, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) which are imposed on, paid by, or asserted against the Indemnitees (or any of them) in connection with (i) any violation of Environmental Law by the Indemnitor or Related Persons, (ii) any Use, storage or release of a Hazardous Substance by the Indemnitor or Related Persons or (iii) the existence of a Hazardous Substance on account of the Use, storage or release of a Hazardous Substance by the Indemnitor, Related Persons (or, with respect only to Grantor, any prior owner or occupant of the Property) on or about the Easement Areas or into the surrounding environment, whether (y) made, commenced or incurred during or prior to the term of this Substation Easement, or (z) made, commenced or incurred after the expiration or termination of this Substation Easement if arising out of an event occurring during or prior to the term of this Substation Easement.

C. Waiver. As between the parties and solely for the purpose of effectuating the indemnities contained in subsections A and B of this section 7, Grantee and Grantor each expressly waives any immunity, defense or protection that may be granted to it under the Washington State Industrial Insurance Act, Revised Code of Washington Title 51 or any other industrial insurance, workers' compensation or similar laws of the State of Washington. This section shall not be interpreted or construed as a waiver of either Grantor's or Grantee's right to assert any such immunity, defense or protection directly against any of its own employees or such employee's estate or other representatives. This section 7.C has been mutually negotiated by the parties.

Initialed by:

\_\_\_\_\_  
Grantor

\_\_\_\_\_  
Grantee

8. **Insurance.** Grantee shall at all times maintain for the protection of Grantor such insurance policies as are specified in Attachment 4 hereto, under the terms and conditions set forth therein.



9. **Conformity with Law.** Grantee shall exercise all of its rights and responsibilities hereunder in accordance with all applicable federal, state and local laws and regulations.

10. **Default.** If Grantee commits a material breach of or default under this Substation Easement, the Grantor may give Grantee written notice of the breach or default (including a statement of the facts relating to the breach or default and the applicable provisions of this Substation Easement). Grantee shall have thirty (30) days after receipt of such notice to cure the specified breach or default, or such longer period as is reasonably necessary to effect such cure if cure cannot be accomplished within such 30-day period, so long as such cure has been commenced within such 30-day period and is being diligently pursued; provided, that in the event of a breach or default that may affect public health or safety (including without limitation Grantee's failure to meet its obligations under section 5) or in an emergency situation, Grantee shall have one (1) working day after receipt of notice to commence curing the breach or default and shall proceed diligently to effect such cure. If Grantee has not cured the breach or default in accordance with the previous sentence, an "Event of Default" will be deemed to have occurred. If an Event of Default occurs, Grantor may seek all remedies available in law or equity, and such remedies shall be cumulative.

11. **Termination**

A. Notwithstanding any other provision hereof, all of Grantee's rights under this Substation Easement shall terminate automatically in the event that Grantee ceases to use the Substation Area for a period of three (3) years or other mutually agreed upon time.

B. In the event that Grantee ceases to use the Substation Area in accordance with section 11.A, Grantee shall, upon written notice from Grantor, demolish and remove the Substation and any other improvements has made to the Substation Area, restore the Substation Area to a condition as good or better than it was prior to construction of the Substation, conduct environmental assessments of the Substation Area (performed in accordance with industry standards at the time of termination), clean-up any portion of the Substation Area so indicated in the environmental assessments, deliver a copy of the environmental assessments and report of clean-up activities (if any) to Grantor, and comply with any closure requirements of Grantor reasonably required to ensure that the Substation Area has been left in an environmentally sound condition and that no latent conditions exist that might adversely impact the Substation Area or Grantor's Cedar River water supply. Such removal and restoration shall be done at Grantee's sole expense and in a manner reasonably satisfactory to Grantor. If Grantee fails, within a reasonable time, to remove the Substation or take such other measures as are mutually agreed upon, Grantor may, after reasonable notice to Grantee, remove the Substation and restore the Substation Area at the expense of Grantee. In lieu of removal of the Substation and site restoration as provided above, Grantor may, at its option, direct Grantee to transfer the Substation to Grantor, whereupon this Substation Easement shall be deemed terminated and Grantee shall have no further responsibility or liability hereunder arising after the date of transfer, except with respect to provisions hereof that survive termination.

C. Upon the completion of Grantee's obligations under section 11.B, this Substation Easement shall terminate automatically. At Grantor's request, Grantee shall execute a release of Substation Easement or similar document, and either party may record such document.

**12. Successors and Assigns.** Grantee may not assign, apportion or otherwise transfer its rights, benefits, privileges and interests arising in or under this Substation Easement without the prior written approval of Grantor, and any assignment, apportionment or transfer without Grantor's prior written approval shall be null, void and without effect. Grantor approves transfer of Grantee's rights, benefits, privileges and interests arising in or under this Substation Easement to Grantee's mortgage trustees or their successors and assigns under indentures in effect as of the date of this Substation Easement that grant to such mortgage trustees a security interest in this Substation Easement or in Grantee's rights or interests herein or hereunder. Subject to the foregoing, the rights and obligations of the Grantor and Grantee shall inure to the benefit of and be binding upon their respective successors and assigns.

**13. Nonwaiver.** The failure of Grantor to insist upon or enforce strict performance by Grantee of any of this provisions hereof or to exercise any rights or remedies hereunder shall not be construed as a waiver or relinquishment to any extent of Grantor's right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect.

**14. Survival.** Notwithstanding any contrary provisions hereof, sections 3, 5, 6 and 7 and all other provisions hereof that reasonably may be interpreted or construed as surviving termination of this Substation Easement shall survive such termination.

**15. Attorneys Fees.** Attorneys fees owing to Grantor under this Substation Easement shall be calculated at the rate charged by attorneys and paralegals in private practice in a downtown Seattle law firm comparable in size to The City of Seattle Law Department who have been working as such for approximately the same period of time as the attorneys and paralegals representing Grantor.

**16. Notices.** All notices, reports and approvals required in connection with this Substation Easement shall be in writing and deemed to have been duly given if personally delivered or sent by United States mail or overnight delivery service, each with proof of receipt, to the addresses shown below or as otherwise indicated in written notice from one party to the other:

If to Grantor:

Real Estate Services  
Seattle Public Utilities  
Key Tower  
700 Fifth Avenue, Suite 4900  
Seattle, Washington 98104-5004  
FAX: 206-615-1215

If to Grantee:

Puget Sound Energy, Inc.  
P.O. Box 90868-GEN02  
Bellevue, WA 98009-9868  
Attn: Major Projects Department  
FAX: 425-462-3976



17. **Amendment.** This Substation Easement may be modified by agreement of Grantor and Grantee. All modifications shall be in writing, signed by both parties and recorded in the real property records of King County.

18. **Miscellaneous.** This Agreement shall be interpreted under the laws of the State of Washington. Grantor and Grantee and their respective counsel have reviewed this Substation Easement, and the parties agree that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Substation Easement. All recitals and exhibits hereto are by this reference incorporated into this Substation Easement.

**THE CITY OF SEATTLE**

By: \_\_\_\_\_  
Director, Seattle Public Utilities

Authorized by Ordinance \_\_\_\_\_

**PUGET SOUND ENERGY, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF WASHINGTON     )  
  )ss.  
COUNTY OF KING            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Seattle Public Utilities of The City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

GIVEN under my hand and official seal hereto affixed the day and year in this certificate first above written.

(Signature of Notary)

\_\_\_\_\_  
(Print or stamp name of Notary)

**NOTARY PUBLIC** in and for the State of  
Washington, residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON     )  
  ) ss.  
COUNTY OF KING            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the person who signed as \_\_\_\_\_, of Puget Sound Energy, Inc., the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed of said corporation for the uses and purposes therein mentioned; and on oath stated that he is authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

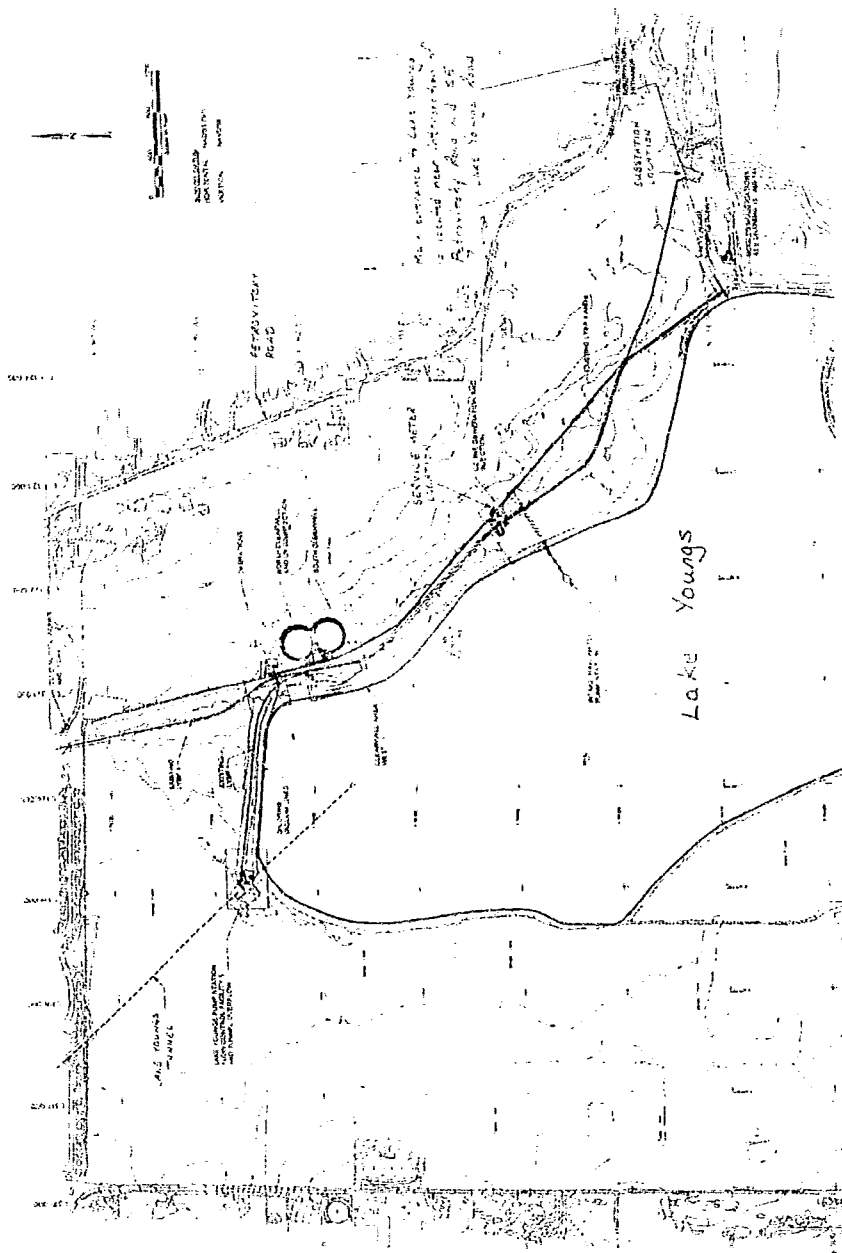
(Signature of Notary)

\_\_\_\_\_  
(Print or stamp name of Notary)

**NOTARY PUBLIC** in and for the State of  
Washington, residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_



Attachment 1 to Exhibit A



General Property Map

Attachment 1 to Exhibit A  
General Property Map



NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Attachment 2 to Exhibit A

**Substation Area**

THAT PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST; THENCE SOUTH  $01^{\circ} 05' 16''$  WEST A DISTANCE OF 2,656.88 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 1;

THENCE SOUTH  $42^{\circ} 56' 09''$  WEST, A DISTANCE OF 859.56 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE SOUTH  $22^{\circ} 28' 12''$  WEST, A DISTANCE OF 251.33 FEET;

THENCE NORTH  $67^{\circ} 31' 48''$  WEST, A DISTANCE OF 143.00 FEET;

THENCE NORTH  $22^{\circ} 28' 12''$  EAST, A DISTANCE OF 136.35 FEET;

THENCE NORTH  $73^{\circ} 10' 11''$  EAST, A DISTANCE OF 183.49 FEET, TO THE **TRUE POINT OF BEGINNING**.

Attachment 2 to Exhibit A  
Substation Area



**Substation Access Area**

Electric and Communication Ductbank and Substation Access

THAT PORTION OF THE WEST ONE-HALF OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST, AND THE EAST ONE-HALF OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST; THENCE SOUTH  $01^{\circ} 05' 16''$  WEST A DISTANCE OF 2656.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 6;

THENCE SOUTH  $54^{\circ} 07' 33''$  EAST, A DISTANCE OF 102.95 FEET TO A POINT ON THE SOUTHERLY MARGIN OF SOUTHEAST PETROVITSKY ROAD BEING THE **TRUE POINT OF BEGINNING**,

THENCE SOUTH  $16^{\circ} 15' 24''$  EAST, A DISTANCE OF 37.49 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "J";

THENCE SOUTH  $86^{\circ} 33' 46''$  EAST, A DISTANCE OF 336.85 FEET, TO THE CENTERLINE OF AN EXISTING OVERHEAD POWERLINE AND THE NORTHEASTERLY TERMINUS OF SAID EASEMENT DESCRIPTION; AND

**TOGETHER WITH** A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET EACH SIDE OF THE FOLLOWING DESCRIBED:

**BEGINNING** AT THE AFOREMENTIONED POINT "J";

THENCE SOUTH  $16^{\circ} 15' 24''$  EAST, A DISTANCE OF 323.69 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "K", LOCATED ON THE APPROXIMATE CENTERLINE OF AN EXISTING MAIN ACCESS ROAD;

THENCE ALONG SAID EXISTING ROAD CENTERLINE, SOUTH  $75^{\circ} 28' 01''$  WEST, A DISTANCE OF 783.77 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "L";

THENCE NORTHWESTERLY ALONG THE APPROXIMATE CENTERLINE OF THE EXISTING POLE LINE ROAD, SOUTH  $84^{\circ} 09' 00''$  WEST, A DISTANCE OF 53.33 FEET;



THENCE CONTINUING ALONG THE CENTERLINE OF SAID POLE LINE ROAD,  
NORTH 83° 40' 31" WEST, A DISTANCE OF 50.83 FEET;

THENCE NORTH 76° 49' 03" WEST, A DISTANCE OF 502.46 FEET;

THENCE NORTH 74° 17' 32" WEST, A DISTANCE OF 103.03 FEET;

THENCE NORTH 75° 52' 10" WEST, A DISTANCE OF 308.74 FEET;

THENCE NORTH 74° 42' 02" WEST, A DISTANCE OF 297.91 FEET;

THENCE NORTH 71° 16' 22" WEST, A DISTANCE OF 193.58 FEET;

THENCE NORTH 65° 02' 37" WEST, A DISTANCE OF 477.71 FEET;

THENCE NORTH 48° 57' 31" WEST, A DISTANCE OF 253.32 FEET;

THENCE NORTH 46° 01' 05" WEST, A DISTANCE OF 349.22 FEET;

THENCE NORTH 47° 10' 48" WEST, A DISTANCE OF 774.23 FEET;

THENCE NORTH 47° 03' 59" WEST, A DISTANCE OF 234.54 FEET;

THENCE NORTH 46° 12' 36" WEST, A DISTANCE OF 471.15 FEET, TO THE  
NORTHWESTERLY TERMINUS OF SAID EASEMENT DESCRIPTION; AND

**TOGETHER WITH** A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET  
ON EACH SIDE OF THE APPROXIMATE CENTERLINE OF A PORTION OF THE  
EXISTING MAIN ACCESS ROAD, BEING MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:

**BEGINNING AT THE AFOREMENTIONED POINT "L";**

THENCE SOUTH 74° 54' 36" WEST, ALONG THE APPROXIMATE CENTERLINE  
OF SAID MAIN ACCESS ROAD, A DISTANCE OF 249.21 FEET;

THENCE CONTINUING ALONG THE APPROXIMATE CENTERLINE OF SAID  
MAIN ACCESS ROAD, SOUTH 74° 42' 07" WEST, A DISTANCE OF 71.86 FEET,  
TO THE SOUTHEASTERLY **TERMINUS** OF SAID EASEMENT DESCRIPTION;  
AND

**TOGETHER WITH** A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET  
ON EACH SIDE OF THE APPROXIMATE CENTERLINE OF A PORTION OF THE  
EXISTING MAIN ACCESS ROAD, BEING MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:



**BEGINNING AT THE AFOREMENTIONED POINT "K";**

THENCE NORTH  $73^{\circ} 49' 22''$  EAST, ALONG THE APPROXIMATE CENTERLINE OF SAID MAIN ACCESS ROAD, A DISTANCE OF 302.14 FEET;

THENCE NORTH  $73^{\circ} 58' 43''$  EAST, CONTINUING ALONG THE APPROXIMATE CENTERLINE OF SAID MAIN ACCESS ROAD, A DISTANCE OF 108.00 FEET;

THENCE CONTINUING ALONG THE APPROXIMATE CENTERLINE OF SAID MAIN ACCESS ROAD, NORTH  $66^{\circ} 47' 43''$  EAST, A DISTANCE OF 95.41 FEET, TO THE WESTERLY RIGHT-OF-WAY OF 184<sup>TH</sup> AVENUE SOUTHEAST AND THE EASTERLY **TERMINUS** OF SAID EASEMENT DESCRIPTION.

THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT TO BE SHORTENED OR LENGTHENED AS REQUIRED TO INTERSECT AT ALL CENTERLINE ANGLE POINTS AND TO BE EXTENDED FROM THE DESCRIBED CENTERLINE TO EACH SIDE LINE AT THE BEGINNING AND TERMINUS OF SAID CENTERLINE SO AS TO FORM AN ENCLOSED PARCEL.

Communication Conduit at SPU Administration Building Access

THAT PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 12.0 FEET IN WIDTH, BEING 6.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST; THENCE SOUTH  $01^{\circ} 05' 16''$  WEST A DISTANCE OF 2,656.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 6;

THENCE SOUTH  $16^{\circ} 11' 58''$  EAST, A DISTANCE OF 465.25 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE SOUTH  $16^{\circ} 03' 10''$  EAST, A DISTANCE OF 59.61 FEET;

THENCE SOUTH  $16^{\circ} 47' 21''$  EAST, A DISTANCE OF 43.27 FEET;

THENCE NORTH  $77^{\circ} 59' 14''$  EAST, A DISTANCE OF 81.22 FEET;

THENCE NORTH  $76^{\circ} 16' 05''$  EAST, A DISTANCE OF 63.51 FEET;

THENCE NORTH 13° 34' 27" WEST, A DISTANCE OF 32.48 FEET, TO THE SOUTHERLY FACE OF THE CITY OF SEATTLE'S LAKE YOUNGS ADMINISTRATION BUILDING, AND THE **TERMINUS OF THIS EASEMENT**.

THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT TO BE SHORTENED OR LENGTHENED AS REQUIRED TO INTERSECT AT ALL CENTERLINE ANGLE POINTS AND TO BE EXTENDED FROM THE DESCRIBED CENTERLINE TO EACH SIDE LINE AT THE BEGINNING AND TERMINUS OF SAID CENTERLINE SO AS TO FORM AN ENCLOSED PARCEL.



Attachment 4

**Insurance Requirements**

**I. GENERAL**

Grantee shall, at all times while this Substation Easement is in effect, obtain and maintain continuously, at its own expense, and file with the City's Risk Manager, evidence of a policy or policies of insurance as enumerated below.

**A. COMMERCIAL GENERAL LIABILITY INSURANCE**

A policy of Commercial General Liability Insurance, written on an insurance industry standard occurrence form (CG 00 01) or equivalent, including all the usual coverages known as:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors Liability
- Stop Gap/Employers Liability
- Explosion, Collapse, or Underground (XCU)
- Broad Form Property Damage
- Fire Damage Legal

Such policy or policies must provide the following minimum limits:

- Bodily Injury, Property Damage, Personal Injury & Advertising Injury
  - \$1,000,000 General Aggregate
  - \$1,000,000 Products & Completed Operations Aggregate
  - \$1,000,000 Personal & Advertising Injury
  - \$1,000,000 Each Occurrence
  - \$ 100,000 Fire Damage Legal
- Stop Gap Employers Liability
  - \$1,000,000 Each Accident
  - \$1,000,000 Disease - Policy Limit
  - \$1,000,000 Disease - Each Employee

Any deductible or self-insured retention must be disclosed and is subject to approval by the City's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of the Grantee.

**B. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

A policy of Business Automobile Liability Insurance, including coverage for any owned, non-owned, leased or hired vehicles if used on or in the vicinity of the Site written on an insurance industry standard form CA 00 01 or equivalent. The following coverage extensions shall also be included: Endorsement CA 99 48 "Pollution Liability -



Broadened Coverage for Covered Autos" and MCS-90 "Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980."

Such policy or policies must provide the following minimum limit:

- Bodily Injury and Property Damage  
\$1,000,000 per accident

#### C. POLLUTION LIABILITY INSURANCE

A policy providing insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Grantee, his agents, representatives, employees, contractors or subcontractors, with coverage for:

- Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- defense including cost, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;

For losses caused by pollution conditions that arise from the operations of the Grantee under this Substation Easement. Coverage shall apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in bodily injury or property damage.

#### Minimum Limits of Insurance:

Contractor shall maintain limits no less than:  
\$5,000,000 per aggregate

#### D. EXCESS LIABILITY INSURANCE

A policy of Excess Liability Insurance above the primary general and automobile liability policies that will provide a total limit of insurance of \$5,000,000 per occurrence/claim and in the aggregate. The excess policy must be at a minimum as broad as the primary policies. This requirement may be satisfied by maintenance of any combination of primary and or excess/umbrella liability limits for general and automobile liability policies of not less than \$5,000,000 each occurrence.



#### E. ADDITIONAL INSURED COVERAGE

Such insurance as provided under items A, B, C and D above shall be endorsed to include the City of Seattle, its officers, elected officials, employees, agents and volunteers as additional insureds, including Completed Operations, per as appropriate ISO form CG 20 10 11 85, CG 20 26 or equivalent, and shall not be reduced or canceled without sixty (60) days prior written notice to the City. In addition, Grantee's insurance shall be primary as respects the City, and any other insurance maintained by the City shall be excess of and not contributing insurance with the Grantee's insurance.

#### F. WORKERS' COMPENSATION

As respects Workers' Compensation insurance in the State of Washington, the Grantee shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If the Grantee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, the Grantee shall so certify by a letter signed by a corporate officer setting forth the limits of any policy of excess insurance covering its employees.

Grantee hereby assumes all risk of damage to the Substation Area and Grantee's property therein, or injury to its officers, directors, agents, contractors, or invitees, in or about the Property from any cause, and hereby waives all claims against the City other than claims for negligence or willful misconduct. The Grantee further waives, with respect to the City only, its immunity under RCW Title 51, Industrial Insurance, of the Revised Code of Washington. In addition, Grantee shall secure its liability for any Federal Workers' Compensation Act exposure, such as the United States Longshoreman's & Harbor Workers Act (USL&H Act) and Maritime Employers Liability (Jones Act), by purchasing insurance coverage as appropriate.

#### G. INSURANCE TO PROTECT GRANTEE'S EQUIPMENT

Grantee shall purchase and maintain property insurance upon the Grantee's equipment for the Actual Cash Value of such equipment as of the time of any loss. This insurance shall insure for "All Risk" perils.

Grantee shall be responsible for any deductibles or coinsurance penalties. **Grantee waives its right of action against Grantor for loss or damage to any equipment used in connection with this Substation Easement and covered by property insurance, other than any right of action for negligence or willful misconduct.**

#### H. ADJUSTMENTS

Grantor reserves the right to review annually the appropriateness of the coverage and limits set forth herein in view of inflation and/or changing industry conditions. Grantor may require an increase in such coverage or limits upon ninety (90) days prior written notice.



## II. EVIDENCE OF INSURANCE

This section applies to all insurance coverage listed in sections I. A – F above. The following documents must be provided as evidence of insurance coverage:

- A copy of the Policy's declaration pages, showing the Insuring Company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements.
- A copy of the endorsement naming The City of Seattle as an Additional Insured, including Completed Operations, showing the policy number, and signed by an authorized representative of the insurance company on an (ISO) Form CG 20 10 11 85, a CG 20 26 or equivalent for Commercial General Liability and Pollution insurance and CA 20 48 or equivalent for Business Auto Liability Insurance.
- A copy of the "Endorsements Form List" to the policy or policies showing endorsements issued on the policy, and including any company-specific or manuscript endorsements.
- A copy of an endorsement stating that the coverages provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least sixty (60) days prior written notice to the City of Seattle.
- A copy of a "Separation of Insureds" or "Severability of Interests" clause, indicating essentially that - except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured - this insurance applies as if each insured were the only named insured, and separately to each insured against whom claim is made or suit is brought (Commercial General Liability and Business Automobile Liability Insurance).

All policies shall be subject to approval by the City's Risk Manager as to insurance company (must be rated A-VII or better in the A.M. Best Key Rating guide and licensed to do business in the State of Washington or issued as a surplus lines by a Washington Surplus Lines broker), form and coverage, and primary to all other insurance.

Acceptance by the City of deficient evidence of insurance does not constitute a waiver of the requirements of this Substation Easement.

## III. SELF-INSURANCE

Should Grantee be self-insured, under its commercial general liability insurance and business automobile liability insurance, a letter from the Corporate Risk Manager or appropriate Finance Officer must be provided. Such letter shall stipulate whether such self-insurance is actuarially funded and fund limits; plus any excess declaration pages to meet the contract requirements. Further, this letter should advise how Grantee would protect and defend the City of Seattle as an Additional Insured in its Self-Insured layer, and include claims handling direction in the event of a claim. Any such self-insurance program shall be subject to the City's approval at its sole discretion.



#### IV. CONTRACTORS AND SUBCONTRACTORS

Grantee shall include all of its contractors and subcontractors as insureds under its policies or furnish separate evidence of insurance by providing certificates of insurance and the Additional Insured Endorsement for the City on each contractor. All coverage for contractors shall be subject to all the requirements stated herein and applicable to their profession.

Grantee will require all of its contractors to add the City of Seattle as an Additional Insured per section I.E above.



Exhibit B

**Form of Electrical and Communication Facility Easement Agreement**

FILED FOR RECORD AT THE REQUEST OF:

Puget Sound Energy, Inc.

Corporate Facilities Department, OBC-11N

P.O. Box 97034

Bellevue, WA 98009-9734

Attn: W. Bressler

REFERENCE #: NA

GRANTOR: **THE CITY OF SEATTLE**

GRANTEE: **PUGET SOUND ENERGY, INC.**

SHORT LEGAL: Portions of NW¼ of SW¼ of Section 6, Township 22 North, Range 6 East, W.M., and Portions of E½ of Section 1, Township 22 North, Range 5 East, W.M.

ASSESSOR'S PROPERTY TAX PARCEL: Portions of 012205- 9006, 062206-9015 and 062206-9024

**ELECTRICAL AND COMMUNICATION FACILITY EASEMENT AGREEMENT**

This Electrical and Communication Facility Easement Agreement ("ECF Easement") is made this \_\_\_\_ day of \_\_\_\_\_, 2003 ("Effective Date"), by and between The City of Seattle, a municipal corporation of the State of Washington, acting by and through Seattle Public Utilities (the "City" or "Grantor") and Puget Sound Energy, Inc., a corporation of the State of Washington ("PSE" or "Grantee").

**RECITALS**

A. The City owns certain real property in unincorporated King County, Washington, commonly referred to as the Lake Youngs Reservation (described pictorially on Attachment 1, the "Property").

B. The City is constructing a water treatment facility on the Property, which facility requires primary voltage electric service.

C. In the Installation and Service Agreement dated as of \_\_\_\_\_ (the "I&S Agreement") between the City and PSE, the parties agreed that it would be most efficient and effective for both parties if PSE were to provide the required electric service through a substation located on the Property (the "Substation") and through related electrical equipment and fiber optic communication facilities, some of which will be installed in conduit and some of which will continue to be directly buried, also located on the Property as described in Attachment 2 (the "ECF," and collectively with the Substation, the "PSE Facilities").

EXHIBIT B

PAGE 1

D. In the I&S Agreement, the parties also agreed that it would be most efficient and effective for both parties if certain communications facilities required by the City on the Property, listed on Attachment 2 (the "City Facilities"), were co-located in a common trench with the ECF, as described in Attachment 2.

E. Pursuant to a Temporary Construction Permit Agreement dated \_\_\_\_\_ between the City and PSE, PSE has constructed and installed the PSE Facilities and the City Facilities.

F. Prior to the date hereof, each of the Federal Energy Regulatory Commission and the Seattle City Council has authorized, approved or otherwise accepted, without change or condition unacceptable to PSE or City, all documents required to be submitted (including this ECF Easement) to the applicable entity with respect to the transactions contemplated by the I&S Agreement.

G. In accordance with the I&S Agreement, the City and PSE, on even date herewith, have entered into a Substation Easement Agreement with respect to operation of the Substation.

H. In accordance with the I&S Agreement, the City and PSE are entering into this ECF Easement.

I. The Property is within the area protected for purposes of supplying drinking water to much of the City and surrounding communities. Consequently, any easement with respect to the ECF, and access thereto, must delineate and control permissible activities within the Property.

#### EASEMENT

For and in consideration of ten and 00/100ths dollars (\$10.00), the mutual promises contained herein and in the I&S Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City as Grantor hereby conveys and quitclaims to PSE as Grantee, for the purposes hereinafter set forth, a **nonexclusive** perpetual easement over, under, along, across and through the real property in King County, Washington described in Attachment 3 hereto (the "ECF Area" ), together with a **nonexclusive**, perpetual easement for ingress and egress over the real property in King County, Washington described in Attachment 4 hereto (the "Access Area").

The ECF Area and the Access Area are described pictorially in Attachment 1 and are referred to collectively as the "Easement Areas." In the event of any conflict between the legal descriptions and the pictorial representation of the Easement Areas, the legal descriptions shall control.

**Purposes of ECF Easement.** Grantee shall have the right (i) within the ECF Area, to use, operate, inspect, maintain, repair, replace, improve and remove the ECF, as described in Attachment 2, and to add electrical equipment or fiber optic communication facilities

(collectively, "Additions") to the ECF as may be necessary to support the Substation, as it now is configured or as may be configured in the future pursuant to the Substation Easement Agreement and (ii) to use the Access Area for ingress to and egress from the ECF Area (collectively, the "Purposes"), **ALL SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

**1. Use of Easement Areas**

A. Except for the Purposes set forth immediately above, Grantee shall not enter upon the Easement Areas or make any use thereof. Grantee shall at all times exercise its rights hereunder (i) in a manner designed to prevent bodily harm to persons (whomsoever) and damage to property (whatsoever), (ii) in accordance with the terms of this ECF Easement and the letter to Grantee dated July 7, 2003, including the therein enclosed Cedar River and Lake Youngs Watershed Access & Quality Control (the "Lake Youngs Regulations") and Additional Regulations – Part 2, Operations Phase ("Additional Regulations") and (iii) except to the extent in conflict with the other provisions of this ECF Easement, in accordance with the terms of any successor document of general application (as may be modified from time to time) to the Lake Youngs Regulations or the Additional Regulations. Precautionary measures to be taken by Grantee pursuant to the Lake Youngs Regulations and Additional Regulations shall include, without limitation, security measures necessary to prevent unauthorized access to the Easement Areas.

B. At no time shall Grantee bring into or use in the Easement Areas fuel or explosive or flammable materials, other than those inherently or reasonably necessary in connection with the operation, maintenance, repair or replacement of the ECF or construction of Additions. At no time shall Grantee keep or store any fuel or explosive or flammable materials whatsoever in the Easement Areas, except that with respect to equipment being used in connection with ECF work and for the shorter of the period specified in section 1.D or the duration of such work, Grantee may keep or store fuel that is contained in such equipment or in a tank that is firmly attached to such equipment. No other storage of fuel or explosive or flammable materials is allowed. Grantor shall be notified at least two (2) full working days in advance of any use or storage (in which case notice shall include the proposed duration of storage) of fuel or explosive or flammable materials in the Easement Areas.

C. Grantee shall promptly pay (and secure the discharge of any liens against the Easement Areas asserted by) all persons and entities furnishing any labor, equipment, services, supplies, materials or other items in connection with the exercise of Grantee's rights hereunder.

D. Except in connection with the exercise of its rights hereunder and for less than forty-eight hours (or any longer period with the prior written consent of Grantor), Grantee shall not cause or permit any equipment, supplies or other items to be kept or stored upon the Easement Areas. Except while performing work on the PSE Equipment and Facilities, Grantee shall not park vehicles in the Easement Areas.

E. Grantee shall not construct or install any above-surface structure whatsoever in the Easement Areas. By way of example only, Grantee shall not construct or install a maintenance structure, storage structure, vault or garage in the ECF Area.

F. Prior to the date hereof, Grantee has submitted to Grantor, and Grantor has approved, Grantee's Spill Clean-up Policy, dated November, 2002, Document No. 0150.3100, fulfilling Grantor's requirements for a Spill Prevention Control and Countermeasure Plan – Operations Phase, November, 2002. ("SPCCP-O"), all in connection with the operation, maintenance, modification, repair, replacement and removal of the PSE Facilities. Grantee shall use, operate, maintain, modify, repair and remove the ECF in accordance with the SPCCP-O, with modifications thereto, if any, that are approved by Grantor to reflect changed physical or regulatory conditions that may arise over time. Five (5) years after the date on which electric power is provided to the Property through the Substation on a commercial basis (the "Commercial Operation Date"), and every five (5) years thereafter, Grantee shall deliver to Grantor a proposed revision to the SPCCP-O, and Grantee shall make such changes to said proposed revision as Grantor reasonably may request. Prior to the energization of any of Grantee's 12.5 kV distribution equipment extending from the Substation to Grantee's electrical facilities on Petrovitsky Road (the "Petrovitsky Feeders"), City shall reimburse Grantee within thirty (30) days of receipt of Grantee's invoices (from time to time) for all increased costs and expenses incurred by Grantee to the extent that they are attributable to Grantee's compliance with any such Grantor-required changes to the SPCCP-O, provided that such invoices are documented to the reasonable satisfaction of Grantor. Grantee shall give Grantor written notice at least ten (10) working days prior to pulling electrical lines or fiber optic cable through conduit in the ECF Area or otherwise maintaining, repairing or replacing ECF, except that in an emergency such notice shall be given as soon as practicable.

G. Any Additions permitted under this ECF Easement shall be no less than one (1) foot vertically from the City Facilities or any other facilities of Grantor, as they may exist at the time Grantee commences construction of such Additions.

At least forty (40) days prior to commencing work on an Addition or any other work in the ECF Area that would result in a change in the one-line electrical drawings or civil drawings for the ECF last submitted to Grantor, Grantee shall submit to Grantor (i) a Temporary Erosion and Sedimentation Control Plan ("TESCP"), (ii) a Spill Prevention Control and Countermeasure Plan ("SPCCP") addressing the items outlined in the "Common Elements of a Spill Prevention Control and Countermeasure Plan" enclosed with the letter from Grantor to Grantee dated July 7, 2003 (as used in said enclosure, the term "hazardous materials" shall have the same meaning as the term "Hazardous Substances," defined in section 5.F hereof) and (iii) one-line electrical drawings and civil drawings in sufficient detail to provide Grantor with a clear understanding of the proposed modifications to the ECF Area.

Grantee shall make such changes to the proposed TESCP, SPCCP, and one-line electrical drawings and civil drawings as Grantor reasonably may request to reflect then current best management practices or otherwise. Grantee shall not commence any work to which this



section 1.G applies without obtaining the prior written consent of Grantor, which consent shall not unreasonably be withheld or denied; provided, that failure by Grantor to respond to the aforesaid submittals within thirty (30) days after receipt shall be deemed to constitute Grantor's consent; provided, further, that under emergency conditions Grantee shall provide the required submittals in such time and manner as is reasonable under the circumstances and may commence (and complete) work to which this section 1.G applies prior to obtaining the prior written consent of Grantor to do so. All work to which this section 1.G applies, except for work in response to emergency conditions, shall be in accordance with the one-line electrical drawings and civil drawings, TЕСP and SPCCP approved by Grantor. Promptly after completion of work to which this section 1.G applies, Grantee shall provide Grantor with as-built one-line electrical drawings and civil drawings, both in sufficient detail to provide Grantor with a clear understanding of the improvements located within the ECF Area.

H. At least ten (10) working days prior to the commencement of any work to which section 1.G applies (except when emergency conditions make such prior notice impracticable), Grantee shall provide Grantor with a work schedule detailing the time of performance and completion of such activities. For projects of a duration longer than one (1) month, Grantee shall provide Grantor with an updated work schedule on a monthly basis.

I. Grantee shall notify Grantor of any tests, surveys, drawings or other documents prepared with respect to the Easement Areas and, if requested by Grantor, Grantee promptly shall provide such documents to Grantor in hard format and, if feasible, electronic format.

J. The information required under section 1.F through 1.I is for informational purposes only. Grantor's receipt of such information, and any review analysis or consideration thereof by Grantor, or Grantor's failure to review, analyze or consider such information (including without limitation failure to discover any error, defect or inadequacy of such information) shall not relieve Grantee of any of its obligations hereunder.

K. Grantee shall comply with all requirements of Chapter 19.122 Revised Code of Washington, as it may be amended from time to time, with respect to locating underground utilities.

L. Grantee recognizes that the ECF is located close to the City Facilities in the ECF Area. Grantor recognizes that the City Facilities are located close to the PSE Equipment and Facilities in the ECF Area. Neither Grantee nor Grantor shall have any rights with respect to the other party's equipment or facilities in the ECF Area, except as may be set forth herein. Neither Grantee nor Grantor shall have any obligations with respect to the other party's equipment or facilities in the ECF Area, except (i) that neither party shall engage in or permit any activity that interferes with, disturbs or damages the other party's equipment or facilities in the ECF Area and (ii) as may be set forth herein.

M. In its use of the Easement Areas, Grantee shall comply with all security requirements generally imposed by Grantor (including without limitation the locking of

gates) and provided by Grantor in writing to Grantee, as such requirements may be modified from time to time, provided such requirements are not in direct conflict with this ECF Easement. Grantee shall use the Easement Areas in a manner that does not interfere with ingress or egress by other persons and their equipment and vehicles; provided, that Grantee may request, ten (10) working days in advance, a temporary blockage of roads in the Easement Areas so that Grantee may perform scheduled maintenance or construction. Grantee's request shall include detailed information regarding the activity to be performed, equipment to be utilized and duration of blockage. Grantee's request shall not unreasonably be delayed or denied. Grantee shall not use any portion of the Easement Areas to keep or store any vehicles, equipment, supplies, or other items. Grantee shall not bring into the Easement Areas any vehicle with a live load that exceeds the American Association of State Highway and Transportation Officials HS20-44 Standard Truck Loading, without the prior written consent of Grantor.

N. As used in this section 1, the terms Grantor and Grantee shall include the employees, agents, contractors, subcontractors (of any tier), licensees or invitees of each.

## **2. Reservation**

A. Grantor reserves to itself the right to use the Easement Areas for its own purposes or grant rights to such areas in any way that does not conflict or interfere with Grantee's exercise of its rights hereunder and, in particular but without limitation, Grantor reserves the right to own, access, operate, repair, replace and add to the City Facilities in the ECF Area. Grantee's rights hereunder shall not preclude Grantor from taking any measures with respect to the Easement Areas that Grantor reasonably deems necessary to protect public health or safety. In addition, Grantor reserves to itself the right (i) to require Grantee to relocate the ECF within or outside the ECF Area, but in any event within the Lake Youngs Reservation (as depicted in Attachment 1) or on other property owned by Grantor and, if outside the ECF Area, to require the amendment of the ECF Area under this ECF Easement to reflect such relocation, and (ii) to enter upon and occupy the Easement Areas from time to time to take such actions as Grantor deems necessary to remediate Hazardous Substances (as defined in section 5.F) or to assure compliance with Environmental Laws (as defined in section 5.E), other than those of The City of Seattle, or with the provisions of this ECF Easement regarding Hazardous Substances (each, an "Environmental Action"), whether or not the Environmental Action is required (directly or indirectly) for compliance with any law or regulation (other than a law or regulation of The City of Seattle) or is necessitated by an agreement between Grantor and another governmental or regulatory agency with respect to Environmental Laws or Hazardous Substances-. With respect to clauses (i) and (ii) of the previous sentence, (x) Grantor shall provide reasonable notice to Grantee of the schedule and nature of any required ECF relocation or Environmental Action, and Grantor shall provide a reasonable opportunity for Grantee to review and comment on the Environmental Action, (y) to the extent reasonably feasible, Grantor shall plan any required ECF relocation and shall plan and execute any Environmental Action so as to minimize adverse effects on Grantee's service to its customer load, and (z) Grantor shall reimburse Grantee for costs and expenses incurred by Grantee to the extent that Grantee's costs and expenses are documented to

Grantor's reasonable satisfaction and are attributable to (a) a required ECF relocation or (b) an Environmental Action that is **not** an action taken by Grantor in accordance with section 5.C.

B. Grantee accepts the reservations contained in section 2.A, acknowledges that its rights with respect to the Easement Areas are non-exclusive, and agrees that Grantor itself may use the Easement Areas and may grant other easements, property interests or use rights to third parties with respect to the Easement Areas, so long as such grants (or any use pursuant to such grants) do not conflict or interfere with Grantee's exercise of its rights hereunder.

**3. Condition of Easement Areas.** Without limiting any of the provisions of sections 5.D and 7.B, Grantee represents that it has inspected the Easement Areas and conducted such assessments as it deems appropriate, and Grantee accepts the Easement Areas, solely for the Purposes, in their present condition, "As Is," with all faults known and unknown. Grantee represents that it is not relying on any statements, written or oral, made by or on behalf of Grantor with respect to the condition of the Easement Areas. Grantee acknowledges that no representations or warranties, express or implied, have been made by or on behalf of Grantor with respect to the condition of the Easement Areas or the use or occupancy of that may be made of them by Grantee, including without limitation their suitability or sufficiency for Grantee's intended use or purposes.

**4. Vegetation and Pest Control.** Other than hand or mechanical removal of vegetation as part of construction and installation of the ECF and the City Facilities, Grantee shall not control vegetation or pests in the Easement Areas in any manner whatsoever, nor shall Grantee have any obligation with respect to such vegetation or pest control.

**5. Hazardous Materials; Waste**

A. All Grantee's operations or activities on or about the Property, and any use or occupancy of the Easement Areas, including without limitation any use or occupancy of the Easement Areas by any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantee, shall be in all material respects in compliance with all Environmental Laws (as defined in section 5.E), including those governing, or in any way relating to, the generation, handling, storage, use transportation, discharge or disposal (whether legal or illegal, accidental or intentional) of any Hazardous Substance (as defined in section 5.F). More specifically, Grantee shall not cause to occur upon the Easement Areas, or permit the Easement Areas to be used to, generate, manufacture, refine, transport, treat, store, handle, dispose, discharge, transfer, or process any Hazardous Substance, except in compliance with all applicable Environmental Laws and with Grantor's prior written consent. Grantee shall not allow the release, storage, use or disposal of any Hazardous Substance on or about the Property except for their intended purposes as reasonably necessary for activities of Grantee permitted hereunder, and only upon the prior written consent of Grantor and in compliance with all applicable Environmental Laws. Grantee shall dispose offsite of all spent materials (waste), whether they are Hazardous Substances or not, in accordance with all



applicable laws. With respect to any Hazardous Substances used or stored on or about the Easement Areas with Grantor's written consent, Grantee shall promptly, timely and completely: (i) comply with all federal, state and local governmental requirements for reporting and record keeping; (ii) submit to Grantor true and correct copies of all reports, manifests and identification numbers at the same time that Grantee is required to submit such information to governmental authorities; (iii) within (5) working days after Grantor's request therefor provide evidence satisfactory to Grantor of Grantee's compliance with all applicable Environmental Laws; and (iv) comply with all applicable governmental rules, regulations and requirements regarding the lawful and proper use, sale, transportation, generation, treatment and disposal of such Hazardous Substances.

B. Prior to bringing into, using in (including without limitation treating or taking any other action with respect to any Hazardous Substance then being used in the Easement Areas), or removing from the Easement Areas any Hazardous Substance except for vehicle fuel and vehicle operating fluid (each, a "Use"), Grantee shall provide written notice to Grantor (which notice shall be received at least five (5) days prior to the Use) of the type and quantity of Hazardous Substance involved in the Use, together with a statement on which Grantor may rely that the then-current SPCCP or SPCCP-O, as applicable, adequately addresses Grantee's intended Use, or Grantee shall deliver a proposed revision to that SPCCP or SPCCP-O, as applicable; provided, that the requirements of this section 5.B shall not apply to any Use of Hazardous Substances addressed in the approved SPCCP or SPCCP-O. Grantee's notice shall include the schedule and purpose of the Use. Grantee shall engage in no Use without Grantor's written approval, which shall not unreasonably be withheld or denied. Notwithstanding the foregoing provisions of this section 5.B, in response to emergency conditions, Grantee shall provide the aforesaid notice at such time as is reasonable under the circumstances and Grantee may engage in such Use prior to obtaining Grantor's written approval. Promptly after completing the activities described in the approved notice, Grantee shall report to Grantor in writing on the Use that actually occurred, including without limitation type and amount of Hazardous Substances involved and incidents of spills or dangerous waste disposal.

C. If Grantee or any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantee violates any of the terms of this ECF Easement concerning compliance with Environmental Laws or the presence, Use, handling or storage of Hazardous Substances, Grantee shall promptly take such action as is necessary to mitigate and correct the violation. Grantor shall have no liability or responsibility for any costs that may be incurred by Grantee in connection with or as a result of actions taken by Grantor in accordance with this section 5.C.

If Grantee does not so act in a prudent and prompt manner, Grantor reserves the right, but not the obligation, subject to all other provisions of this ECF Easement, to act in place of Grantee (for which purpose Grantee hereby appoints Grantor as its agent), to enter onto the Easement Areas and to take such actions as Grantor deems necessary to ensure compliance or to mitigate the violation, provided Grantor has provided reasonable notice to Grantee of its intentions. All costs and expenses incurred by Grantor in connection with any such actions



performed by Grantor shall become immediately due and payable by Grantee upon Grantor's presentation of an invoice therefor.

D. With respect to any Hazardous Substances that are on the Easement Areas as of the Effective Date or are released on the Easement Areas thereafter by Grantor or any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantor, a disturbance or movement (without more) of such Hazardous Substances within the ECF Area or between the Access Area and the ECF Area by Grantee or any employee, agent, contractor, subcontractor (of any tier), licensee or invitee of Grantee during activities of Grantee permitted hereunder shall **not** be a violation of the terms of this ECF Easement concerning compliance with Environmental Laws, the presence or Use of Hazardous Substances in the Easement Areas, or the handling or storing of Hazardous Substances.

E. For the purposes of this ECF Easement, the term "Environmental Law(s)" means any local, state or federal law, regulation, ordinance, order or other source of law, now or hereafter in effect relating to the protection of human health or the environment including, but not limited to: the Federal Clean Air Act; the Federal Water Pollution Control Act; the Federal Safe Drinking Water Act; the Federal Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; the Federal Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984; the Federal Occupational Safety and Health Act; the Federal Emergency Planning and Right-to-Know Act of 1986; the Federal Hazardous Materials Transportation Control Act of 1980; the Federal Water Act of 1977; the Federal Insecticide, Fungicide and Rodenticide Act; the Federal Waste Management Recovery and Recycling Act; the Washington Hazardous Waste Management Act; the Washington Hazardous Waste Fees Act; Washington Model Toxics Control Act; the Washington Nuclear Energy and Radiation Act; the Washington Radioactive Waste Storage and Transportation Act; the Washington Underground Petroleum Storage Tanks Act; and any regulations promulgated thereunder from time to time.

F. For purposes of this ECF Easement, the term "Hazardous Substance(s)" means any and all dangerous, hazardous or toxic substances, materials, wastes, pollutants or contaminants regulated under or subject to any Environmental Laws, including but not limited to those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. §172.101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. pt. 302 and amendments thereto) or in the Washington Hazardous Waste Management Act (Ch. 70.105D RCW) or the Washington Model Toxics Control Act (Chs. 70.105D RCW 82.21 RCW), petroleum products and their derivatives, and such other substances, materials and wastes as become regulated or subject to cleanup authority under any Environmental Law.

#### **6. Taxes and Assessments.**

A. Prior to the energization of any of the Petrovitsky Feeders and only to the extent Taxes (as defined below) when due and payable are not recoverable by Grantee

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through its general rates, Grantor shall pay or, if paid by Grantee, reimburse to Grantee, the amount of leasehold excise taxes and any other taxes, fees, assessments or charges (however termed) by governmental entities that are imposed on Grantor or Grantee specifically because of the property interests granted to Grantee hereunder, the ECF, Grantee's use of the ECF and the Easement Areas or Grantee's personal property in the Easement Areas (collectively, "Taxes"), whether imposed on Grantor or Grantee.

B. Following energization of any of the Petrovitsky Feeders or if Taxes when due and payable are recoverable by Grantee through its general rates, (i) Grantee shall timely pay directly to the applicable governmental entity all Taxes imposed upon Grantee, and (ii) to the extent Taxes are imposed on Grantor or Grantor is obligated under the laws of the State of Washington or King County to collect any Taxes from Grantee and remit them to a governmental entity, Grantee shall pay to Grantor, within thirty (30) days of receipt of invoice, the amount of such Taxes.

C. Without limiting sections 6.A and 6.B, Grantor and Grantee acknowledge that, based on state law and regulation existing as of the Effective Date, they anticipate that a leasehold excise tax as referred to above will not be payable. If a leasehold excise tax is imposed, they will cooperate in good faith to seek and obtain any relief from the obligation to collect and pay such tax.

D. In the event that Grantee breaches or otherwise does not fulfill its obligations under this section 6, Grantor reserves the right, but not the obligation, on reasonable notice to Grantee, to pay any such Taxes that are due and owing. All costs and expenses incurred by Grantor in connection with its actions pursuant to the previous sentence shall become due and payable by Grantee within one working day of Grantor's presentation of an invoice therefor. Any overdue payment shall be made with interest thereon at the rate of twelve percent (12%) per annum calculated on the basis of a 365-day year and actual days elapsed from (and including) the date on which such payment was due, to (and including) the date on which such payment is made.

## **7. Indemnification**

A. General Indemnity. Notwithstanding the termination of this ECF Easement, each party (the "Indemnitor") shall indemnify, defend and hold the other party and its officers, agents, employees, contractors, successors and assigns (collectively, the "Indemnitees") harmless against any loss, damage, liability, claim, demand or cost (each, a "Loss") resulting from injury or harm to persons or property to the extent caused by the negligence of the Indemnitor or its employees, agents, contractors, subcontractors (of any tier), licensees or invitees (collectively, "Related Persons"). In the case of joint or concurrent negligence of Grantor and Grantee (or either or both Grantor, Grantee and others), the resulting Loss shall be borne by the parties hereto in proportion to their respective degrees of negligence.

B. Environmental Indemnity. In addition to all other indemnities provided in this ECF Easement, and notwithstanding its termination, the Indemnitor shall indemnify, defend and hold harmless the Indemnitees from and against all claims, causes of action, regulatory demands, judgements, liens, damages, penalties, fines, costs, expenses, liabilities or losses (including, without limitation, clean up or remedial costs, injuries to third persons, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) which are imposed on, paid by, or asserted against the Indemnitees (or any of them) in connection with (i) any violation of Environmental Law by the Indemnitor or Related Persons, (ii) any Use, storage or release of any Hazardous Substance by the Indemnitor or Related Persons or (iii) the existence of a Hazardous Substance on account of the Use, storage or release of a Hazardous Substance by the Indemnitor or Related Persons (or, with respect only to Grantor, any prior owner or occupant of the Property), on or about the Easement Areas or into the surrounding environment, whether (y) made, commenced or incurred during or prior to the term of this ECF Easement, or (z) made, commenced or incurred after the termination of this ECF Easement if arising out of an event occurring during or prior to the term of this ECF Easement.

C. Waiver. As between the parties and solely for the purpose of effectuating the indemnities contained in subsections A and B of this section 7, Grantee and Grantor each expressly waives any immunity, defense or protection that may be granted to it under the Washington State Industrial Insurance Act, Revised Code of Washington Title 51 or any other industrial insurance, workers' compensation or similar laws of the State of Washington. This section shall not be interpreted or construed as a waiver of either Grantor's or Grantee's right to assert any such immunity, defense or protection directly against any of its own employees or such employee's estate or other representatives. This section 7.C has been mutually negotiated by the parties.

Initialed by:

\_\_\_\_\_  
Grantor

\_\_\_\_\_  
Grantee

8. **Insurance.** Grantee shall at all times maintain for the protection of Grantor such insurance policies as are specified in Attachment 5 hereto, under the terms and conditions set forth therein.

9. **Conformity with Law.** Grantee shall exercise all of its rights and responsibilities hereunder in accordance with all applicable federal, state and local laws and regulations.

10. **Default.** If Grantee commits a material breach of or default under this ECF Easement, the Grantor may give Grantee written notice of the breach or default (including a statement of the facts relating to the breach or default and the applicable provisions of this ECF Easement). Grantee shall have thirty (30) days after receipt of such notice to cure the specified breach or default, or such longer period as is reasonably necessary to effect such



cure if cure cannot be accomplished within such 30-day period, so long as such cure has been commenced within such 30-day period and is being diligently pursued; provided, that in the event of a breach or default that may affect public health or safety (including without limitation Grantee's failure to meet its obligations under section 5) or in an emergency situation, Grantee shall have one (1) working day after receipt of notice to commence curing the breach or default and shall proceed diligently to effect such cure. If Grantee has not cured the breach or default in accordance with the previous sentence, an "Event of Default" will be deemed to have occurred. If an Event of Default occurs, Grantor may seek all remedies available in law or equity, and such remedies shall be cumulative.

## **11. Termination**

A. Notwithstanding any other provision hereof, all of Grantee's rights under this ECF Easement shall terminate automatically in the event that Grantee ceases to use the ECF Area for a period of three (3) years or other mutually agreed upon time.

B. In the event that Grantee ceases to use the ECF Area in accordance with section 11.A, Grantee shall, upon written notice from Grantor, remove, at the direction of Grantor, any or all of the ECF from the ECF Area, restore the ECF Area to a condition as good or better than it was prior to construction of the ECF, conduct environmental assessments of the ECF Area (performed in accordance with industry standards at the time of termination), clean-up any portion of the ECF Area so indicated in the environmental assessments, deliver a copy of the environmental assessments and report of clean-up activities (if any) to Grantor, and comply with any closure requirements of Grantor reasonably required to ensure that the ECF Area has been left in an environmentally sound condition and that no latent conditions exist that might adversely impact the ECF Area or Grantor's Cedar River water supply. Such removal and restoration shall be done at Grantee's sole expense and in a manner reasonably satisfactory to Grantor. If Grantee fails, within a reasonable time, to remove any or all of the ECF or take such other measures as are mutually agreed upon, Grantor may, after reasonable notice to Grantee, remove the ECF and restore the ECF Area at the expense of Grantee. In lieu of removal of the ECF and site restoration as provided above, Grantor may, at its option, direct Grantee to transfer the ECF to Grantor, whereupon this ECF Easement shall be deemed terminated and Grantee shall have no further responsibility or liability hereunder arising after the date of transfer, except with respect to provisions hereof that survive termination.

C. Upon the completion of Grantee's obligations under section 11.B, this ECF Easement shall terminate automatically. At Grantor's request, Grantee shall execute a release of this ECF Easement or a similar document, and either party may record such document.

**12. Successors and Assigns.** Grantee may not assign, apportion or otherwise transfer its rights, benefits, privileges and interests arising in or under this ECF Easement without the prior written approval of Grantor, and any assignment, apportionment or transfer without Grantor's prior written approval shall be null, void and without effect. Grantor

approves transfer of Grantee's rights, benefits, privileges and interests arising in or under this ECF Easement to Grantee's mortgage trustees or their successors and assigns under indentures in effect as of the date of this ECF Easement that grant to such mortgage trustees a security interest in this ECF Easement or in Grantee's rights or interests herein or hereunder. Subject to the foregoing, the rights and obligations of the Grantor and Grantee shall inure to the benefit of and be binding upon their respective successors and assigns.

**13. Nonwaiver.** The failure of Grantor to insist upon or enforce strict performance by Grantee of any of this provisions hereof or to exercise any rights or remedies hereunder shall not be construed as a waiver or relinquishment to any extent of Grantor's right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect.

**14. Survival.** Notwithstanding any contrary provisions hereof, sections 3, 6 and 7 and all other provisions hereof that reasonably may be interpreted or construed as surviving termination of this ECF Easement shall survive such termination.

**15. Attorneys Fees.** Attorneys' fees owing to Grantor under this ECF Easement shall be calculated at the rate charged by attorneys and paralegals in private practice in a downtown Seattle law firm comparable in size to The City of Seattle Law Department who have been working as such for approximately the same period of time as the attorneys and paralegals representing Grantor.

**16. Notices.** All notices, reports and approvals required in connection with this ECF Easement shall be in writing and deemed to have been duly given if personally delivered or sent by United States mail or overnight delivery service, each with proof of receipt, to the addresses shown below or as otherwise indicated in written notice from one party to the other:

If to Grantor:

Real Estate Services  
Seattle Public Utilities  
700 Fifth Avenue, Suite 4900  
Seattle, WA 98104-5004  
FAX: 206-615-1215

If to Grantee:

Puget Sound Energy, Inc.  
P. O. Box 90868 - GEN02  
Bellevue, WA 98009-9868  
Attn: Major Projects Department  
FAX: 425-462-3976

**17. Amendment**

*[The ECF Easement to be signed by Grantor and Grantee will contain only one of the following alternative provisions based on whether or not, at the time of signing, the as-built ECF and City Facilities have been surveyed and the Parties have agreed upon a legal description of the as-built ECF based upon such survey.]*

*[If the Parties do not have or agree on a legal description of the as-built ECF based upon survey:]*

A. Within six (6) months following the Commercial Operation Date, Grantor at its expense shall cause to be conducted a survey of the as-built ECF and City Facilities. Based on such survey, Grantor shall cause to be prepared a legal description of the area containing the as-built ECF that, to the extent feasible for the Purposes, is no more than eight (8) feet wide to the east or west of the Substation, expands to and tapers from twenty-five (25) feet wide at vault locations, and is no less than three (3) feet horizontally and one (1) foot vertically at any point from the Lake Youngs Water Supply Line 4 or any other facilities of Grantor in existence as of the date of this ECF Easement. Grantor promptly shall deliver copies of said survey and surveyor's legal description to Grantee. Grantor and Grantee shall enter into and record in the real property records of King County an amendment to this ECF Easement to replace the legal description of the ECF Area contained herein with the legal description developed in accordance with this section 17.A. Grantee's failure to comply with this section 17.A shall be a material breach of this ECF Easement.

B. In addition to the amendment required under section 17.A, this ECF Easement may be modified by agreement of Grantor and Grantee. All modifications shall be in writing, signed by both parties and recorded in the real property records of King County.

**[OR]**

*[If the Parties agree on a legal description of the as-built ECF based upon survey:]*

A. Grantor and Grantee each acknowledge that (i) prior to the execution of this ECF Easement Grantor caused to be conducted a survey of the as-built ECF and City Facilities and (ii) Grantor delivered copies of said survey and resulting legal description to Grantee. Grantor and Grantee accept such legal description and agree that it is contained in Attachment 3 hereto.

B. This ECF Easement may be modified by agreement of Grantor and Grantee. All modifications shall be in writing, signed by both parties and recorded in the real property records of King County.

**18. Miscellaneous.** This ECF Easement shall be interpreted under the laws of the State of Washington. Grantor and Grantee and their respective counsel have reviewed this ECF Easement, and the parties agree that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this ECF Easement. All recitals and exhibits hereto are by this reference incorporated into this ECF Easement.



**THE CITY OF SEATTLE**

By: \_\_\_\_\_  
Director, Seattle Public Utilities

Authorized by Ordinance \_\_\_\_\_

**PUGET SOUND ENERGY, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF WASHINGTON     )  
  )ss.  
COUNTY OF KING         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Seattle Public Utilities of The City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

GIVEN under my hand and official seal hereto affixed the day and year in this certificate first above written.

(Signature of Notary)

\_\_\_\_\_  
(Print or stamp name of Notary)

**NOTARY PUBLIC** in and for the State of  
Washington, residing at \_\_\_\_\_  
My Appointment Expires: \_\_\_\_\_

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STATE OF WASHINGTON     )  
  ) ss.  
COUNTY OF KING         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the person who signed as \_\_\_\_\_, of Puget Sound Energy, Inc., the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed of said corporation for the uses and purposes therein mentioned; and on oath stated that he is authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

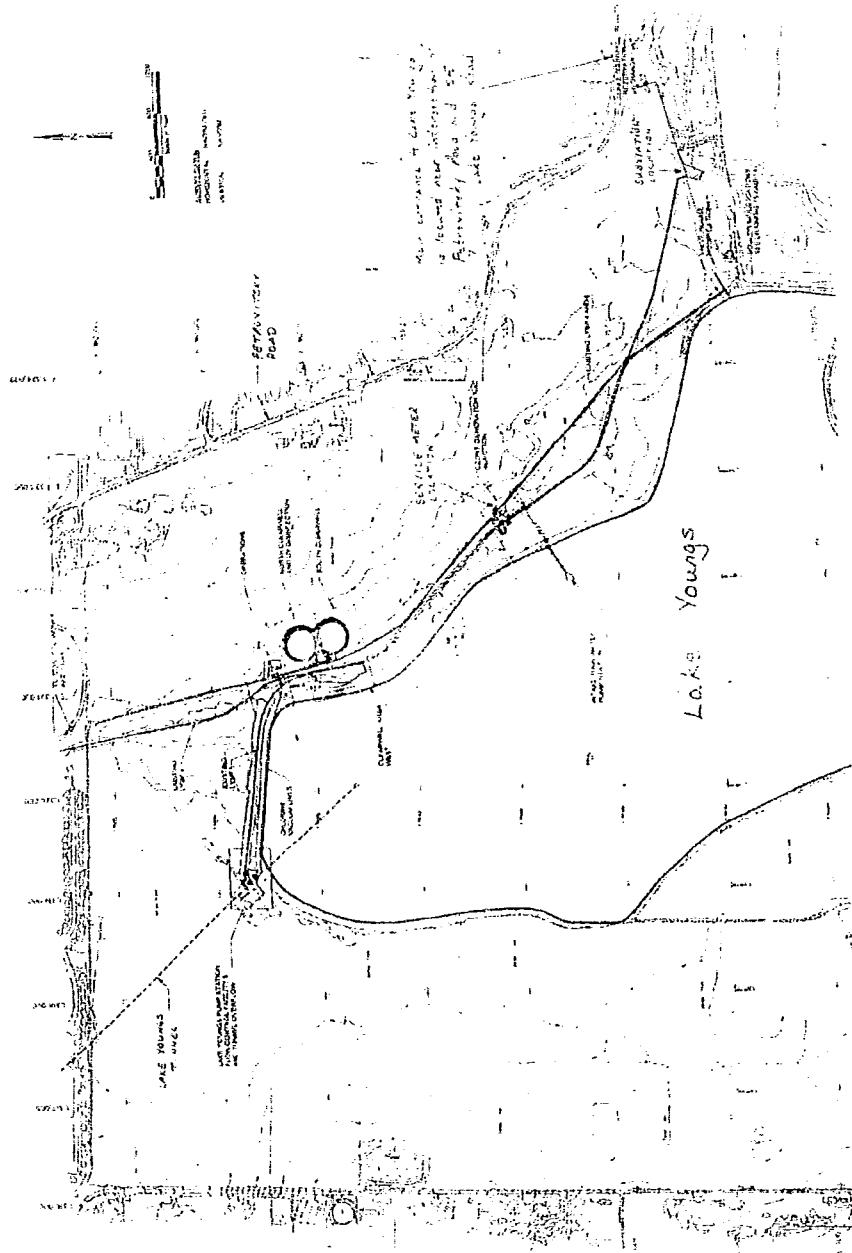
\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Print or stamp name of Notary)  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_

My Appointment Expires: \_\_\_\_\_



Attachment 1 to Exhibit B



General Property Map

Attachment 1 to Exhibit B  
General Property Map



NOTICE:  
IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Attachment 2 to Exhibit B

**ECF and City Facilities**

**“ECF”** means (i) the portions of existing PSE primary service cable to City facilities that will be retained and connected to the relocated portion of such primary service, (ii) an underground 12.5 kV feeder circuit extending from the City water treatment facility on the Property to the Substation, (iii) a primary voltage meter cabinet at the City water treatment facility, (iv) a PML 8400 Ion meter in the cabinet referred to in item (iii), (v) underground conduits and associated vaults required for the Petrovitsky Feeders (as defined in section 1.F), for PSE fiber optic communication cable, and for relocated City primary voltage service, in the trench extending approximately 800 feet from the Substation to a point (the “Intercept Point”) directly in front of the Seattle Public Utilities Administration Building on the Property (the “Administration Building”), and (vi) the segment of five of such underground conduits and associated vaults for the underground 12.5 kV feeder circuits and for PSE fiber optic communication cable, in the area extending approximately 550 feet from the Intercept Point to PSE’s electrical facilities located on Petrovitsky Road.

**“City Facilities”** means underground conduit and associated pull boxes for City fiber optic communication cable extending from the City water treatment facility on the Property to the Qwest Interface Panel in the Administration Building.

Attachment 3 to Exhibit B

ECF Area

Electric and Communication Ductbank

THAT PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST, AND THE EAST ONE-HALF OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 8.0 FEET IN WIDTH, BEING 4.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

**COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 5 EAST, THENCE SOUTH  $01^{\circ} 05' 16''$  WEST, A DISTANCE OF 2,656.88 FEET, TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 6;**

THENCE SOUTH  $54^{\circ} 07' 33''$  EAST, A DISTANCE OF 102.95 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHEAST PETROVITSKY ROAD, BEING A ROADWAY 84.0 FEET IN WIDTH.

THENCE SOUTH  $16^{\circ} 15' 24''$  EAST, A DISTANCE OF 33.24 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A";

THENCE SOUTH  $86^{\circ} 33' 46''$  EAST, A DISTANCE OF 339.00 FEET TO THE CENTERLINE OF AN EXISTING OVERHEAD POWERLINE AND THE **TRUE POINT OF BEGINNING**;

THENCE NORTH  $86^{\circ} 33' 46''$  WEST, PARALLEL WITH AND 4.0 FEET SOUTHERLY OF AN EXISTING CHAIN LINK FENCE LINE, A DISTANCE OF 339.00 FEET, TO THE AFOREMENTIONED POINT "A";

THENCE SOUTH  $16^{\circ} 15' 24''$  EAST, A DISTANCE OF 348.72 FEET;

THENCE SOUTH  $74^{\circ} 35' 40''$  WEST, A DISTANCE OF 83.01 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "B"; AND

**TOGETHER WITH A STRIP OF LAND 8.0 FEET IN WIDTH, BEING 4.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;**

BEGINNING AT THE AFOREMENTIONED POINT "A"; THENCE NORTH  $16^{\circ} 15' 24''$  WEST, A DISTANCE OF 33.24 FEET, TO THE SOUTHERLY RIGHT-OF-WAY OF SOUTHEAST PETROVITSKY ROAD, AND

**TOGETHER WITH** A STRIP OF LAND OF VARIABLE WIDTH, THE PERIMETER OF WHICH IS DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE AFOREMENTIONED POINT "B";

THENCE SOUTH 15° 24' 20" EAST, A DISTANCE OF 4.0 FEET;

THENCE SOUTH 59° 31' 42" WEST, A DISTANCE OF 27.80 FEET;

THENCE NORTH 75° 12' 36" WEST, A DISTANCE OF 56.12 FEET;

THENCE SOUTH 75° 44' 25" WEST, A DISTANCE OF 50.13 FEET;

THENCE SOUTH 74° 35' 40" WEST, A DISTANCE OF 57.20 FEET;

THENCE SOUTH 77° 25' 57" WEST, A DISTANCE OF 37.80 FEET;

THENCE SOUTH 71° 09' 19" WEST, A DISTANCE OF 249.94 FEET;

THENCE SOUTH 14° 48' 25" EAST, A DISTANCE OF 9.85 FEET;

THENCE SOUTH 75° 04' 11" WEST, A DISTANCE OF 15.00 FEET;

THENCE NORTH 14° 48' 25" WEST, A DISTANCE OF 8.79 FEET;

THENCE SOUTH 71° 09' 19" WEST, A DISTANCE OF 27.21 FEET;

THENCE SOUTH 77° 25' 49" WEST, A DISTANCE OF 153.43 FEET;

THENCE SOUTH 69° 24' 04" WEST, A DISTANCE OF 58.79 FEET;

THENCE NORTH 22° 28' 12" EAST, A DISTANCE OF 8.21 FEET, TO POINT HEREINAFTER REFERRED TO AS POINT "C", BEING A POINT LOCATED 10.0 FEET SOUTHERLY OF THE MOST SOUTHERLY FACE OF THE EXISTING LAKE YOUNGS SUPPLY LINE NO. 5;

THENCE NORTH 69° 24' 04" EAST, A DISTANCE OF 53.60 FEET, TO A POINT LOCATED 6.0 FEET SOUTHERLY OF THE MOST SOUTHERLY FACE OF THE EXISTING LAKE YOUNGS SUPPLY LINE NO. 5;

THENCE NORTH 77° 25' 49" EAST, A DISTANCE OF 153.53 FEET, PARALLEL WITH AND 6.0 FEET SOUTHERLY OF THE MOST SOUTHERLY FACE OF THE EXISTING LAKE YOUNGS SUPPLY LINE NO. 5;

THENCE NORTH 71° 09' 19" EAST, A DISTANCE OF 292.19 FEET;



THENCE NORTH 77° 25' 57" EAST, A DISTANCE OF 37.88 FEET;

THENCE NORTH 74° 35' 40" EAST, A DISTANCE OF 56.94 FEET;

THENCE NORTH 75° 44' 25" EAST, A DISTANCE OF 50.01 FEET;

THENCE NORTH 74° 35' 40" EAST, A DISTANCE OF 50.00 FEET;

THENCE SOUTH 68° 32' 52" EAST, A DISTANCE OF 31.68 FEET;

THENCE SOUTH 15° 24' 20" EAST, A DISTANCE OF 4.00 FEET, TO THE AFOREMENTIONED POINT "B", AND

**TOGETHER WITH** A STRIP OF LAND 12.0 FEET IN WIDTH, BEING 6.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT THE AFOREMENTIONED POINT "C"; THENCE SOUTH 73° 40' 11" WEST, A DISTANCE OF 165.49 FEET, TO THE **BEGINNING** OF SAID 12 FOOT WIDE STRIP OF LAND;

THENCE NORTH 16° 19' 49" WEST, A DISTANCE OF 102.87 FEET TO THE **TERMINUS** OF THE 12-FOOT WIDE STRIP OF LAND AT A POINT HEREINAFTER REFERRED TO AS POINT "D"; AND

**TOGETHER WITH** A STRIP OF LAND 8.0 FEET IN WIDTH, BEING 4.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT THE AFOREMENTIONED POINT "D"; THENCE NORTH 76° 49' 03" WEST, A DISTANCE OF 403.43 FEET, ALONG A LINE INTENDED TO BE 4.0 FEET NORTHEASTERLY AND PARALLEL WITH THE APPROXIMATE CENTERLINE OF THE EXISTING POLE LINE ROAD;

THENCE NORTH 74° 17' 32" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 103.08 FEET;

THENCE NORTH 75° 52' 10" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 308.75 FEET;

THENCE NORTH 74° 42' 02" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 297.75 FEET;

THENCE NORTH 71° 16' 22" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 193.46 FEET;

THENCE NORTH 65° 02' 37" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 477.15 FEET;

THENCE NORTH 48° 57' 32" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 252.65 FEET;

THENCE NORTH 46° 01' 05" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 349.16 FEET;

THENCE NORTH 47° 10' 48" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 774.26 FEET;

THENCE NORTH 47° 04' 00" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 234.51 FEET;

THENCE NORTH 46° 12' 36" WEST, PARALLEL WITH AND 4.0 FEET NORTHEASTERLY OF THE APPROXIMATE CENTERLINE OF THE POLE LINE ROAD, A DISTANCE OF 285.17 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "E"; AND

**TOGETHER WITH** A STRIP OF LAND 10 FEET IN WIDTH BEING 5.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

**BEGINNING** AT THE AFOREMENTIONED POINT "E";

THENCE NORTH 52° 21' 56" EAST, A DISTANCE OF 39.43 FEET TO THE **TERMINUS** OF SAID EASEMENT.

**TOGETHER WITH** A TRIANGULAR PARCEL OF LAND DESCRIBED AS FOLLOWS:

**BEGINNING** AT A POINT ON THE SOUTHEASTERLY SIDELINE OF THE PREVIOUSLY MENTIONED 10 FOOT STRIP OF LAND AT ITS INTERSECTION WITH THE NORTHEASTERLY SIDELINE OF THE MOST PREVIOUSLY MENTIONED COURSE OF THE 8.0 FOOT STRIP OF LAND;

THENCE NORTH 52° 21' 56" EAST, A DISTANCE OF 12.0 FEET;

THENCE SOUTHERLY TO POINT ON THE NORTHEASTERLY SIDELINE OF THE 8.0 FOOT STRIP OF LAND WHICH IS LOCATED SOUTH 46° 12' 36" EAST, A DISTANCE OF 12.0 FEET FROM THE INTERSECTION OF SAID SIDELINES;

THENCE NORTH 46° 12' 36" WEST, A DISTANCE OF 12.0 FEET, TO THE INTERSECTION OF SAID SIDELINES.

THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT TO BE SHORTENED OR LENGTHENED AS REQUIRED TO INTERSECT AT ALL CENTERLINE ANGLE POINTS AND TO BE EXTENDED FROM THE DESCRIBED CENTERLINE TO EACH SIDE LINE AT THE BEGINNING AND TERMINUS OF SAID CENTERLINE SO AS TO FORM AN ENCLOSED PARCEL.

Communication Conduit at Lake Youngs Administration Building

THAT PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 6.0 FEET IN WIDTH, BEING 3.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST; THENCE SOUTH 01° 05' 16" WEST A DISTANCE OF 2,656.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 6;

THENCE SOUTH 16° 11' 58" EAST, A DISTANCE OF 465.25 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE SOUTH 16° 03' 10" EAST, A DISTANCE OF 59.61 FEET;

THENCE SOUTH 16° 47' 21" EAST, A DISTANCE OF 43.27 FEET;

THENCE NORTH 77° 59' 14" EAST, A DISTANCE OF 81.22 FEET;

THENCE NORTH 76° 16' 05" EAST, A DISTANCE OF 63.51 FEET;

THENCE NORTH 13° 34' 27" WEST, A DISTANCE OF 32.48 FEET, TO THE SOUTHERLY FACE OF THE CITY OF SEATTLE'S LAKE YOUNGS ADMINISTRATION BUILDING, AND THE **TERMINUS OF THIS EASEMENT**.

THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT TO BE SHORTENED OR LENGTHENED AS REQUIRED TO INTERSECT AT ALL CENTERLINE ANGLE POINTS AND TO BE EXTENDED FROM THE DESCRIBED CENTERLINE

TO EACH SIDE LINE AT THE BEGINNING AND TERMINUS OF SAID  
CENTERLINE SO AS TO FORM AN ENCLOSED PARCEL.

Attachment 4 to Exhibit B

**ECF Access Area**

Electric and Communication Ductbank and Substation Access

THAT PORTION OF THE WEST ONE-HALF OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST, AND THE EAST ONE-HALF OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST; THENCE SOUTH  $01^{\circ} 05' 16''$  WEST A DISTANCE OF 2656.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 6;

THENCE SOUTH  $54^{\circ} 07' 33''$  EAST, A DISTANCE OF 102.95 FEET TO A POINT ON THE SOUTHERLY MARGIN OF SOUTHEAST PETROVITSKY ROAD BEING THE **TRUE POINT OF BEGINNING**,

THENCE SOUTH  $16^{\circ} 15' 24''$  EAST, A DISTANCE OF 37.49 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "J";

THENCE SOUTH  $86^{\circ} 33' 46''$  EAST, A DISTANCE OF 336.85 FEET, TO THE CENTERLINE OF AN EXISTING OVERHEAD POWERLINE AND THE NORTHEASTERLY TERMINUS OF SAID EASEMENT DESCRIPTION; AND

**TOGETHER WITH** A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET EACH SIDE OF THE FOLLOWING DESCRIBED:

**BEGINNING** AT THE AFOREMENTIONED POINT "J";

THENCE SOUTH  $16^{\circ} 15' 24''$  EAST, A DISTANCE OF 323.69 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "K", LOCATED ON THE APPROXIMATE CENTERLINE OF AN EXISTING MAIN ACCESS ROAD;

THENCE ALONG SAID EXISTING ROAD CENTERLINE, SOUTH  $75^{\circ} 28' 01''$  WEST, A DISTANCE OF 783.77 FEET, TO A POINT HEREINAFTER REFERRED TO AS POINT "L";

THENCE NORTHWESTERLY ALONG THE APPROXIMATE CENTERLINE OF THE EXISTING POLE LINE ROAD, SOUTH  $84^{\circ} 09' 00''$  WEST, A DISTANCE OF 53.33 FEET;

THENCE CONTINUING ALONG THE CENTERLINE OF SAID POLE LINE ROAD,  
NORTH 83° 40' 31" WEST, A DISTANCE OF 50.83 FEET;

THENCE NORTH 76° 49' 03" WEST, A DISTANCE OF 502.46 FEET;

THENCE NORTH 74° 17' 32" WEST, A DISTANCE OF 103.03 FEET;

THENCE NORTH 75° 52' 10" WEST, A DISTANCE OF 308.74 FEET;

THENCE NORTH 74° 42' 02" WEST, A DISTANCE OF 297.91 FEET;

THENCE NORTH 71° 16' 22" WEST, A DISTANCE OF 193.58 FEET;

THENCE NORTH 65° 02' 37" WEST, A DISTANCE OF 477.71 FEET;

THENCE NORTH 48° 57' 31" WEST, A DISTANCE OF 253.32 FEET;

THENCE NORTH 46° 01' 05" WEST, A DISTANCE OF 349.22 FEET;

THENCE NORTH 47° 10' 48" WEST, A DISTANCE OF 774.23 FEET;

THENCE NORTH 47° 03' 59" WEST, A DISTANCE OF 234.54 FEET;

THENCE NORTH 46° 12' 36" WEST, A DISTANCE OF 471.15 FEET, TO THE  
NORTHWESTERLY TERMINUS OF SAID EASEMENT DESCRIPTION; AND

**TOGETHER WITH A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET  
ON EACH SIDE OF THE APPROXIMATE CENTERLINE OF A PORTION OF THE  
EXISTING MAIN ACCESS ROAD, BEING MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:**

**BEGINNING AT THE AFOREMENTIONED POINT "L";**

THENCE SOUTH 74° 54' 36" WEST, ALONG THE APPROXIMATE CENTERLINE  
OF SAID MAIN ACCESS ROAD, A DISTANCE OF 249.21 FEET;

THENCE CONTINUING ALONG THE APPROXIMATE CENTERLINE OF SAID  
MAIN ACCESS ROAD, SOUTH 74° 42' 07" WEST, A DISTANCE OF 71.86 FEET,  
TO THE SOUTHEASTERLY **TERMINUS** OF SAID EASEMENT DESCRIPTION;  
AND

**TOGETHER WITH A STRIP OF LAND 16.0 FEET IN WIDTH, BEING 8.0 FEET  
ON EACH SIDE OF THE APPROXIMATE CENTERLINE OF A PORTION OF THE  
EXISTING MAIN ACCESS ROAD, BEING MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:**

**BEGINNING AT THE AFOREMENTIONED POINT "K";**

THENCE NORTH 73° 49' 22" EAST, ALONG THE APPROXIMATE CENTERLINE OF SAID MAIN ACCESS ROAD, A DISTANCE OF 302.14 FEET;

THENCE NORTH 73° 58' 43" EAST, CONTINUING ALONG THE APPROXIMATE CENTERLINE OF SAID MAIN ACCESS ROAD, A DISTANCE OF 108.00 FEET;

THENCE CONTINUING ALONG THE APPROXIMATE CENTERLINE OF SAID MAIN ACCESS ROAD, NORTH 66° 47' 43" EAST, A DISTANCE OF 95.41 FEET, TO THE WESTERLY RIGHT-OF-WAY OF 184<sup>TH</sup> AVENUE SOUTHEAST AND THE EASTERLY **TERMINUS** OF SAID EASEMENT DESCRIPTION.

THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT TO BE SHORTENED OR LENGTHENED AS REQUIRED TO INTERSECT AT ALL CENTERLINE ANGLE POINTS AND TO BE EXTENDED FROM THE DESCRIBED CENTERLINE TO EACH SIDE LINE AT THE BEGINNING AND TERMINUS OF SAID CENTERLINE SO AS TO FORM AN ENCLOSED PARCEL.

Communication Conduit at SPU Administration Building Access

THAT PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 12.0 FEET IN WIDTH, BEING 6.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST; THENCE SOUTH 01° 05' 16" WEST A DISTANCE OF 2,656.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 6;

THENCE SOUTH 16° 11' 58" EAST, A DISTANCE OF 465.25 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE SOUTH 16° 03' 10" EAST, A DISTANCE OF 59.61 FEET;

THENCE SOUTH 16° 47' 21" EAST, A DISTANCE OF 43.27 FEET;

THENCE NORTH 77° 59' 14" EAST, A DISTANCE OF 81.22 FEET;

THENCE NORTH 76° 16' 05" EAST, A DISTANCE OF 63.51 FEET;

THENCE NORTH 13° 34' 27" WEST, A DISTANCE OF 32.48 FEET, TO THE SOUTHERLY FACE OF THE CITY OF SEATTLE'S LAKE YOUNGS ADMINISTRATION BUILDING, AND THE **TERMINUS OF THIS EASEMENT**.



THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT TO BE SHORTENED OR LENGTHENED AS REQUIRED TO INTERSECT AT ALL CENTERLINE ANGLE POINTS AND TO BE EXTENDED FROM THE DESCRIBED CENTERLINE TO EACH SIDE LINE AT THE BEGINNING AND TERMINUS OF SAID CENTERLINE SO AS TO FORM AN ENCLOSED PARCEL.



Attachment 5

**Insurance Requirements**

**I. GENERAL**

Grantee shall, at all times while this ECF Easement is in effect, obtain and maintain continuously, at its own expense, and file with the City's Risk Manager, evidence of a policy or policies of insurance as enumerated below.

**A. COMMERCIAL GENERAL LIABILITY INSURANCE**

A policy of Commercial General Liability Insurance, written on an insurance industry standard occurrence form (CG 00 01) or equivalent, including all the usual coverages known as:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors Liability
- Stop Gap/Employers Liability
- Explosion, Collapse, or Underground (XCU)
- Broad Form Property Damage
- Fire Damage Legal

Such policy or policies must provide the following minimum limits:

■ Bodily Injury, Property Damage, Personal Injury & Advertising Injury

- \$1,000,000 General Aggregate
- \$1,000,000 Products & Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury
- \$1,000,000 Each Occurrence
- \$ 100,000 Fire Damage Legal

■ Stop Gap Employers Liability

- \$1,000,000 Each Accident
- \$1,000,000 Disease - Policy Limit
- \$1,000,000 Disease - Each Employee

Any deductible or self-insured retention must be disclosed and is subject to approval by the City's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of the Grantee.

**B. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

A policy of Business Automobile Liability Insurance, including coverage for any owned, non-owned, leased or hired vehicles if used on or in the vicinity of the Site written on an insurance industry standard form CA 00 01 or equivalent. The following coverage extensions shall also be included: Endorsement CA 99 48 "Pollution Liability -

TY  
ERK

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE, IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Broadened Coverage for Covered Autos" and MCS-90 "Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980."

Such policy or policies must provide the following minimum limit:

- Bodily Injury and Property Damage  
\$1,000,000 per accident

#### C. POLLUTION LIABILITY INSURANCE

A policy providing insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Grantee, his agents, representatives, employees, contractors or subcontractors, with coverage for:

- Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- defense including cost, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;

For losses caused by pollution conditions that arise from the operations of the Grantee under this ECF Easement. Coverage shall apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in bodily injury or property damage.

##### Minimum Limits of Insurance:

Contractor shall maintain limits no less than:  
\$5,000,000 per aggregate

#### D. EXCESS LIABILITY INSURANCE

A policy of Excess Liability Insurance above the primary general and automobile liability policies that will provide a total limit of insurance of \$5,000,000 per occurrence/claim and in the aggregate. The excess policy must be at a minimum as broad as the primary policies. This requirement may be satisfied by maintenance of any combination of primary and or excess/umbrella liability limits for general and automobile liability policies of not less than \$5,000,000 each occurrence.



#### E. ADDITIONAL INSURED COVERAGE

Such insurance as provided under items A, B, C and D above shall be endorsed to include the City of Seattle, its officers, elected officials, employees, agents and volunteers as additional insureds, including Completed Operations, per as appropriate ISO form CG 20 10 11 85, CG 20 26 or equivalent, and shall not be reduced or canceled without sixty (60) days prior written notice to the City. In addition, Grantee's insurance shall be primary as respects the City, and any other insurance maintained by the City shall be excess of and not contributing insurance with the Grantee's insurance.

#### F. WORKERS' COMPENSATION

As respects Workers' Compensation insurance in the State of Washington, the Grantee shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If the Grantee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, the Grantee shall so certify by a letter signed by a corporate officer setting forth the limits of any policy of excess insurance covering its employees.

Grantee hereby assumes all risk of damage to the Substation Area and Grantee's property therein, or injury to its officers, directors, agents, contractors, or invitees, in or about the Property from any cause, and hereby waives all claims against the City other than claims for negligence or willful misconduct. The Grantee further waives, with respect to the City only, its immunity under RCW Title 51, Industrial Insurance, of the Revised Code of Washington. In addition, Grantee shall secure its liability for any Federal Workers' Compensation Act exposure, such as the United States Longshoreman's & Harbor Workers Act (USL&H Act) and Maritime Employers Liability (Jones Act), by purchasing insurance coverage as appropriate.

#### G. INSURANCE TO PROTECT GRANTEE'S EQUIPMENT

Grantee shall purchase and maintain property insurance upon the Grantee's equipment for the Actual Cash Value of such equipment as of the time of any loss. This insurance shall insure for "All Risk" perils.

Grantee shall be responsible for any deductibles or coinsurance penalties. **Grantee waives its right of action against Grantor for loss or damage to any equipment used in connection with this ECF Easement and covered by property insurance, other than any right of action for negligence or willful misconduct.**

#### H. ADJUSTMENTS

Grantor reserves the right to review annually the appropriateness of the coverage and limits set forth herein in view of inflation and/or changing industry conditions. Grantor may require an increase in such coverage or limits upon ninety (90) days prior written notice.

## II. EVIDENCE OF INSURANCE

This section applies to all insurance coverage listed in sections I. A – F above. The following documents must be provided as evidence of insurance coverage:

- A copy of the Policy's declaration pages, showing the Insuring Company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements.
- A copy of the endorsement naming The City of Seattle as an Additional Insured, including Completed Operations, showing the policy number, and signed by an authorized representative of the insurance company on an (ISO) Form CG 20 10 11 85, a CG 20 26 or equivalent for Commercial General Liability and Pollution insurance and CA 20 48 or equivalent for Business Auto Liability Insurance.
- A copy of the "Endorsements Form List" to the policy or policies showing endorsements issued on the policy, and including any company-specific or manuscript endorsements.
- A copy of an endorsement stating that the coverages provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least sixty (60) days prior written notice to the City of Seattle.
- A copy of a "Separation of Insureds" or "Severability of Interests" clause, indicating essentially that - except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured - this insurance applies as if each insured were the only named insured, and separately to each insured against whom claim is made or suit is brought (Commercial General Liability and Business Automobile Liability Insurance).

All policies shall be subject to approval by the City's Risk Manager as to insurance company (must be rated A-VII or better in the A.M. Best Key Rating guide and licensed to do business in the State of Washington or issued as a surplus lines by a Washington Surplus Lines broker), form and coverage, and primary to all other insurance.

Acceptance by the City of deficient evidence of insurance does not constitute a waiver of the requirements of this ECF Easement.

## III. SELF-INSURANCE

Should Grantee be self-insured, under its commercial general liability insurance and business automobile liability insurance, a letter from the Corporate Risk Manager or appropriate Finance Officer must be provided. Such letter shall stipulate whether such self-insurance is actuarially funded and fund limits; plus any excess declaration pages to meet the contract requirements. Further, this letter should advise how Grantee would protect and defend the City of Seattle as an Additional Insured in its Self-Insured layer, and include claims handling direction in the event of a claim. Any such self-insurance program shall be subject to the City's approval at its sole discretion.

#### **IV. CONTRACTORS AND SUBCONTRACTORS**

Grantee shall include all of its contractors and subcontractors as insureds under its policies or furnish separate evidence of insurance by providing certificates of insurance and the Additional Insured Endorsement for the City on each contractor. All coverage for contractors shall be subject to all the requirements stated herein and applicable to their profession.

Grantee will require all of its contractors to add the City of Seattle as an Additional Insured per section I.E above.



Exhibit C

**REPLACEMENT LEGAL DESCRIPTION FOR 1993 EASEMENT**

THAT PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, AND THE SOUTHEAST ONE-QUARTER, SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

TWO SEPARATE STRIPS OF LAND, EACH 10.0 FEET IN WIDTH, BEING 5.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINES;

EASEMENT PART "A": COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 22 NORTH, RANGE 6 EAST; THENCE SOUTH  $01^{\circ} 05' 16''$  WEST A DISTANCE OF 2,656.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 6;

THENCE SOUTH  $81^{\circ} 47' 23''$  EAST, A DISTANCE OF 447.44 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHEAST PETROVITSKY ROAD, BEING 84.0 FEET IN WIDTH, AND THE **TRUE POINT OF BEGINNING** OF PART "A" OF THIS EASEMENT;

THENCE SOUTH  $13^{\circ} 33' 58''$  WEST, A DISTANCE OF 173.60 FEET, ALONG THE CENTERLINE OF AN EXISTING OVERHEAD POWERLINE, TO AN EXISTING POWER POLE;

THENCE FROM SAID EXISTING POWER POLE, SOUTH  $41^{\circ} 36' 23''$  WEST, A DISTANCE OF 51.04 FEET, ALONG THE CENTER OF EXISTING ABOVE AND UNDERGROUND ELECTRICAL FACILITIES;

THENCE CONTINUING ALONG THE CENTER OF SAID EXISTING ELECTRICAL FACILITIES, SOUTH  $56^{\circ} 49' 57''$  WEST, A DISTANCE OF 88.54 FEET;

THENCE SOUTH  $71^{\circ} 38' 33''$  WEST, A DISTANCE OF 112.76 FEET, ALONG THE CENTER OF SAID EXISTING ELECTRICAL FACILITIES TO THE **TERMINUS** OF PART "A" OF THIS EASEMENT.

AND THENCE CONTINUING, WITH PART "B" OF THIS EASEMENT, BEING ALSO A STRIP OF LAND 10.0 FEET IN WIDTH, BEING 5.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

EASEMENT PART "B": COMMENCING AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 22 NORTH, RANGE 5 EAST; THENCE SOUTH  $01^{\circ} 05' 16''$



WEST A DISTANCE OF 2,656.88 FEET TO THE NORTHEAST CORNER OF THE  
SOUTHEAST ONE-QUARTER OF SAID SECTION 1;

THENCE SOUTH  $42^{\circ} 56' 09''$  WEST, A DISTANCE OF 859.56 FEET;

THENCE SOUTH  $73^{\circ} 40' 11''$  WEST, A DISTANCE OF 165.69 FEET;

THENCE NORTH  $16^{\circ} 19' 49''$  WEST, A DISTANCE OF 44.33 FEET TO THE **TRUE  
POINT OF BEGINNING** OF PART "B" OF THIS EASEMENT;

THENCE SOUTH  $72^{\circ} 55' 44''$  WEST, A DISTANCE OF 162.70 FEET;

THENCE SOUTH  $75^{\circ} 35' 57''$  WEST, A DISTANCE OF 150.86 FEET;

THENCE SOUTH  $75^{\circ} 05' 55''$  WEST, A DISTANCE OF 159.24 FEET;

THENCE SOUTH  $79^{\circ} 07' 59''$  WEST, A DISTANCE OF 151.59 FEET;

THENCE SOUTH  $69^{\circ} 00' 03''$  WEST, A DISTANCE OF 309.22 FEET;

THENCE SOUTH  $70^{\circ} 31' 31''$  WEST, A DISTANCE OF 187.39 FEET, TO THE NEW  
LAKE YOUNGS VALVE HOUSE AND THE **TERMINUS** OF THIS EASEMENT.

THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT TO BE SHORTENED  
OR LENGTHENED AS REQUIRED TO INTERSECT AT ALL CENTERLINE  
ANGLE POINTS AND TO BE EXTENDED FROM THE DESCRIBED CENTERLINE  
TO EACH SIDE LINE AT THE BEGINNING AND TERMINUS OF SAID  
CENTERLINE SO AS TO FORM AN ENCLOSED PARCEL.





# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

September 2, 2003

Honorable Peter Steinbrueck  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Steinbrueck:

The attached ordinance authorizes Seattle Public Utilities (SPU) to grant two easements related to a new electrical substation at SPU's Lake Youngs Reservation, and amend a previously issued easement. One of the easements to be granted provides for a perpetual right for Puget Sound Energy (PSE) to operate the new Lake Youngs Substation, subject to various protections, on the Lake Youngs Reservation. The second easement to be issued provides for a perpetual right to PSE to operate electrical and communication conduits and facilities across the Lake Youngs Reservation necessary to provide electrical services to SPU facilities. An amendment to a 1993 easement is necessary because a portion of the property rights granted in that easement will no longer be needed.

SPU's new Cedar Treatment Facility, for which construction is over 50% complete, is located on the Lake Youngs Reservation. The facility will pump raw water from Lake Youngs into the treatment facility, where it will be disinfected using ozonation and ultraviolet light treatment processes. The electrical needs of the new facility exceed the capacity of the existing PSE service in the area, and thus the siting of a new electrical substation is necessary.

The substation must be in place in early 2004 in order to allow for electrical testing of the pumping system. The new Cedar Treatment Facility is expected to be operational by mid-2004.

Thank you for your consideration of this legislation. Should you have questions, please contact Liz Kelly, SPU's Director of Strategic Operations, at 386-9779, or 206-909-4514.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Nickels", written over the printed name and title.

GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7<sup>th</sup> Floor, Seattle, WA 98104-8154

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@ci.seattle.wa.us

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**FISCAL NOTE FOR CAPITAL PROJECTS ONLY**

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Public Utilities	Liz Kelly, 206-909-4514	Cameron Keyes, 206-684-8048

**Legislation Title:** AN ORDINANCE relating to Seattle Public Utilities; authorizing the grant of easements to Puget Sound Energy, Inc., for an electrical substation and electrical and fiber optic communication facilities, on a portion of the property known as the Lake Youngs Reservation and located in unincorporated King County, with an address of 18015 SE Lake Youngs Road, Renton; declaring a portion of that property surplus to the City's needs and not required for providing continued municipal utility services; and authorizing amendments of easements on portions of the Lake Youngs Reservation in connection therewith.

**Summary of the Legislation:** Representatives of Seattle Public Utilities (SPU) and Puget Sound Energy, Inc. (PSE) have negotiated an agreement under the terms of which PSE will construct and operate an electrical substation and install, use and maintain certain related electrical and fiber optic communication facilities within the Lake Youngs Reservation. That agreement requires that PSE have easement rights providing access to these facilities, for their operation and maintenance. The legislation provides authorization for the necessary easements, which are included as exhibits to the legislation.

**Background:** The Cedar Treatment Facility on the Lake Youngs Reservation will require installation of a new substation, due to the size and nature of its electrical requirements. The negotiated agreement between SPU and PSE defines the terms under which PSE will install a substation on the Lake Youngs Reservation. Locating the needed substation there provides for a combination of mutual economic benefit to the parties, along with relatively quick installation/energization and reliability that are crucial to the operation of the Treatment Facility and to electricity supply to the area contiguous to the Reservation. Key terms are described in greater detail in the attached Summary. Importantly, SPU will benefit from the substation being located within the Lake Youngs Reservation, and it is necessary to both SPU and PSE to ensure continued access to and operation of the substation through the grant of easements that are acceptable to both parties.

Project Name:	Project Location:	Start Date:	End Date:
Cedar Treatment Facility	Lake Youngs Reservoir	1 <sup>st</sup> Q 1996	4 <sup>th</sup> Q 2004

- Please check one of the following:

☒ **This legislation does not have any financial implications.** Although the legislation does not have any financial implications itself, the attached document

entitled "Lake Youngs Substation Agreements: Background Economic Summary" describes the related Installation and Service Agreement between SPU and PSE which does involve financial considerations for both parties to that agreement. The proposed legislation would provide for certain property rights that will allow the parties to carry out the purposes of the Installation and Service Agreement.

**This legislation has financial implications.**

- **What is the financial cost of not implementing the legislation:** The legislation provides easement access rights in support of the separate, but related, Installation and Service Agreement between SPU and PSE. The financial costs to SPU are not embodied in the legislation, but in that separate agreement. The magnitude of those costs, their spending authorization, and the approximate costs of possible alternatives, are described in the attached Background Economic Summary.
- **What are the possible alternatives to the legislation that would achieve the same or similar objectives:** The attached Summary describes the alternatives to the shared substation Installation and Service Agreement reached between SPU and PSE. Each alternative would achieve similar objectives, and one – the dedicated substation on the Lake Youngs Reservation – would also require the grant of easements by the City. The Background Economic Summary notes the magnitude of the financial advantage of the selected alternative.
- **Is the legislation subject to public hearing requirements:** Yes.
- **Other Issues:** The easements provide SPU with avenues to require relocation of the facilities from the easement areas, should it be determined to be necessary in the future.

Attachment To Fiscal Note: "Lake Youngs Substation Agreements: Background Economic Summary"



**Lake Youngs Substation Agreements:  
Background Economic Summary  
August 14, 2003**

**Basic Service Requirements**

SPU's new Cedar Treatment Facility, for which construction is about 50% complete, is located at the Lake Youngs Reservation. The facility will pump raw water from Lake Youngs into the treatment facility, where it will be disinfected using ozone and ultraviolet treatment processes. Both the pumping and the treatment process require considerable amounts of electricity. Furthermore, they will entail major start-up electrical loads for the large pumps involved. This combination of features of the Treatment Plant's electrical needs exceeds the capability of the existing Puget Sound Energy (PSE) service in the area, and requires the siting, construction and installation of a new electrical substation.

SPU and PSE have sited and begun planning and engineering for a substation located on the Lake Youngs Reservation, approximately three-quarters of a mile east of the new treatment facility. In addition, SPU has determined that it would be most economical if the point of service delivery of the electricity were at the Treatment Plant, which will require the installation of an appropriate service feeder to the specialized meter SPU requires at the Plant.

The Lake Youngs Reservation lies within the PSE service territory, and the existing electrical service (i.e., prior to the new treatment facility) to the SPU facilities on the Reservation is provided by PSE. PSE already has a non-exclusive easement from the City, under the terms of which it extends that service from its system adjacent to the Reservation to the SPU facilities at and near the Lake.

**Substation Alternatives**

SPU had several potential alternatives for providing the substation services, each of which it explored before selecting the shared PSE substation on the Reservation that is currently being pursued. Each alternative would have provided sufficient power, but they differed substantially in terms of their cost, timing, exposure to service interruption risk, and need for supporting agreements with the City.

The basic alternatives were:

1. A Dedicated SCL-Constructed Substation, On the Reservation
2. A Dedicated PSE-Constructed Substation, On the Reservation
3. A Shared PSE Substation, Off the Reservation
4. A Shared PSE Substation, On the Reservation



**1. Dedicated SCL-Constructed Substation, On the Reservation.** This alternative would have cost \$1,500,000 to \$2,000,000, which cost would have been borne by SPU. In addition, SPU would then have been able to purchase its electricity from SCL.

The weaknesses of this alternative were 1) it would cost at least \$1,000,000 more than the chosen alternative, 2) SCL did not wish to sour relations with PSE over service within its normal service area, when the two utilities have many other more important issues where they must cooperate, and 3) the electric rates that would be available to SPU under SCL service offer no substantial long-term promise of cost savings, and are currently higher than the corresponding rates from PSE. Consequently, after careful discussions with SCL management, SPU eliminated this alternative.

**2. Dedicated PSE-Constructed Substation, On the Reservation.** This alternative would have cost approximately the same as its SCL counterpart - \$1,500,000 to \$2,000,000. There would have been no service territory concerns, and SPU would have been able to purchase power from PSE under the high-voltage customer rate normally associated with dedicated facility service such as this.

The weaknesses of this alternative were primarily economic. The dedicated facility cost that SPU would have borne is at least \$1,000,000 higher than the chosen alternative. In addition, due to the size of its projected electricity purchases and their timing, SPU would not benefit from paying the high-voltage rates of PSE Schedule 46 rather than the general commercial rate it now expects to pay under Schedule 31. After considering this alternative and examining the most efficient ways of implementing it, SPU and PSE concurred that there were superior approaches, and this one was eliminated.

**3. Shared PSE Substation, Off the Reservation.** This alternative would have been similar to the one chosen in some regards. SPU and PSE could have crafted similar financial terms, although the overall costs of the substation as well as the costs of the dedicated feeder circuit to the Treatment Plant would have been considerably higher, with the increment most likely meaning higher costs for both parties.

Unlike the dedicated substation, this alternative (as well as the chosen alternative) allows PSE to establish the capacity to ensure more flexible and reliable service to their other customers in the area and to accommodate the growth in demand that is forecasted in the area.

A major issue for SPU, however, involved the expected timing within which PSE would be able to site, permit, construct, and energize a substation in the developing area near Petrovitsky Road. That process would have taken a significant amount more time than developing a substation on the Reservation, with considerable uncertainty about just how much longer. Timing delay and uncertainty have been significant factors due to SPU's obligations in the design-build-operate agreement for the Cedar Treatment Facility, and the delays associated with this alternative would likely have necessitated temporary power arrangements, further increasing costs. In addition, site acquisition costs, and the



need for a much longer dedicated feeder circuit from such a facility to the SPU Treatment Plant were expected to produce higher overall costs to SPU for providing electrical service to the Plant.

**4. Shared PSE Substation, On the Reservation.** This is the chosen alternative. Among the available alternatives, it provides for the quickest electrical connection to the Treatment Plant for testing and service. In addition, by being located close to the Treatment Plant, it reduces service interruption risk. Finally, by providing for both SPU needs and other PSE reliability interests and growth potential in one mutually advantageous location, it has allowed the parties to reach economic terms that are superior to those of other combined or separate approaches.

**Basic Economic Terms of the Proposed PSE/SPU Substation Agreement**

1. SPU makes payments to PSE for Substation engineering and construction costs, as they are incurred (expected to amount to \$2.5 - \$3.0 million). The authority for these SPU payments from the Water Fund has already been provided in budget authorizations for the CIP project named "Cedar Treatment Facility," project number C196015 within the Water Quality Budget Control Level. The funding provided in the Water Fund's 2002-2007 Adopted CIP, 2003-2008 Adopted CIP and 2004-2009 Proposed CIP includes provisions for securing power delivery arrangements, including any necessary substation and service delivery facilities.
2. PSE makes a lump-sum repayment to SPU, with adjustment for inflation (to be based on the actual CPI-W), of the same Substation engineering and construction payments, at the earlier of: a) five years following the Substation's Commercial Operation Date, or b) two years after the date PSE energizes any of the three non-SPU feeders from the Substation to its service area.
3. Costs will be shared for the joint trenching for PSE and SPU electrical wiring and communication fiber between the Treatment Plant and the Substation, and between the Substation and the SPU Administration Building, with the cost sharing in each trench segment proportional to numbers of conduits in the segment. This cooperation reduces costs for both parties. The total costs for this set of facilities will be small, relative to the cost of Item 1.
4. SPU also makes payments and later receives repayment - again adjusted for inflation at the actual CPI-W - for the trenching cost shares required by normal Substation operation. This is a relatively small cost item.
5. SPU makes full payment, without subsequent repayment, for a) any special electrical services or relocation of existing services requested by SPU, and b) extraordinary costs resulting from unique Agreement negotiating requirements. [Note: These costs include the cost of contracting with PSE for installation of the feeder from the Substation to the Treatment Plant, for which the PSE bid was lower than the previous proposal to SPU by over \$800,000. This opportunity was available largely because of the nature and location of the substation alternative chosen.]
6. PSE makes full payment without any SPU contribution for non-Substation, general PSE system costs, such as the non-SPU feeders to Petrovitsky Road.

7. The City, through SCL, will agree to provide transmission service from its Cedar Falls - Fairwood transmission line to the Lake Youngs Substation for at least 35 years, in exchange for which PSE will agree to provide energy transfer from its system to the SCL system of the combined output of the Cedar Falls Generating Facility and any other generation that replaces Cedar Falls Generating output for at least 35 years.
8. The City will amend the existing Easement under which PSE provides service across the Lake Youngs Reservation to SPU facilities, to reflect the additional distance to the Treatment Plant and some line relocation, subject to various protections.
9. The City will grant PSE an additional perpetual Easement, allowing it to operate the Lake Youngs Substation within the Reservation, subject to various protections.

**Economic Benefits to SPU**

1. The present value to SPU of its interim payments for the Substation, net of later repayment from PSE, will be between \$250,000 and \$400,000, with the amount dependent on how soon PSE energizes any of its three feeders from the Substation to Petrovitsky Road. This compares with dedicated Substation costs of \$1,500,000 to \$2,000,000.
2. SPU will have its dedicated feeder and service drop installed at a cost of approximately \$450,000, rather than the \$1,300,000 bid as part of the Treatment Plant DBO proposal.
3. SPU will receive annual electrical service at a regular published PSE rate that is slightly lower than the large commercial rate offered by PSE, and lower than the rate that would have been paid for service from SCL.





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City of Seattle, Clerk's Office

No. TITLE ONLY PUBLICAITONS

**Affidavit of Publication**

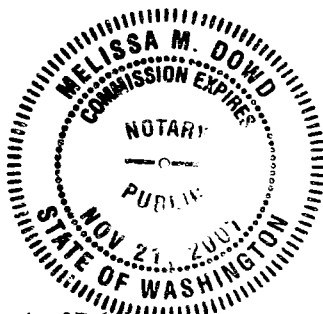
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:121289-90,93-99

was published on

10/13/2003



Affidavit of Publication

*Jennifer Porter*

Subscribed and sworn to before me on

10/13/2003

*Melissa Dowd*

Notary public for the State of Washington,  
residing in Seattle

# City of Seattle

The full text of the following ordinances, passed by the City Council on September 29, 2003, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

**AN ORDINANCE** appropriating money to pay certain audited claims and ordering the payment thereof.

AN ORDINANCE relating to Seattle Public Utilities; authorizing relinquishment of the portion of a sewer easement within property located at 2100 Alaskan Way, Seattle, which portion no longer is needed for City sewer facilities.

**AN ORDINANCE** relating to affordable housing program development; authorizing a grant agreement with the Corporation for Supportive Housing for activities intended to expand the supply of housing for long-term homeless people; accepting the acceptance by the City of Three Hundred and Twenty-Five Thousand Dollars thereunder; authorizing implementing agreements, including agreements with Spokane County, City of Spokane and King County for activities using a portion of the grant funds; creating a part-time position in the Office of Housing; and increasing the 2003 Budget of the Office of Housing by making an appropriation conditioned on receipt of grant funds.

AN ORDINANCE relating to affordable housing; authorizing the Director of the Office of Housing to enter into and administer an Interlocal Cooperation Agreement with King County for a Regional Affordable Housing Program using revenues from the surcharge on document recording fees authorized by State law; and ratifying and confirming prior acts.

AN ORDINANCE relating to the City Light Department; authorizing execution of the Amendment No. 3 to the Exchange and Transfer Agreement, the Talbot Hill Substation Interconnection Agreement Amendment and the Cedar Falls Line - Lake Youngs Substation Transfers Payment Agreement, all with Puget Sound Energy, Inc. and related to transmission service over and from the Cedar Falls Transmission Line.

DINANCE relating to Seattle  
ies; authorizing the grant of ease-  
MEI Met Sound Energy, Inc., for an  
Cablest and electrical and fiber  
propagation facilities, on a portion  
property known as the Lake Youngs  
benefit and located in unincorporated  
nery, with an address of 18015 SE  
305 Youngs Road, Renton; declaring a por-  
tion that property surplus to the City's  
and not required for providing contin-  
D municipal utility services; and authoriz-  
amendments of easements on portions of  
C/Lake Youngs Reservation in connection  
growth.

AN ORDINANCE accepting the deed to certain real property in Parcel A, City of Seattle short plat subdivision no. 2204735 for general municipal purposes, to be used initially for the new High Point Branch Library.

AN ORDINANCE authorizing execution of a ten year lease of the Roger Dahl Rifle Training Range at West Seattle Stadium with the West Seattle Sportsman's Club.

AN ORDINANCE relating to City real property; authorizing the transfer of jurisdiction of certain property in Block 12, Eastern Addition to the Town of Seattle commonly referred to as 199 Boren Avenue (PMA 43) from the Fleets and Facilities Department to the Department of Parks and Recreation for use as a park.

Date of publication in the Seattle Daily Journal of Commerce, October 13, 2003.